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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DISTRICT

- - - - -
JOSE M. PADILLA, AS THE SPECIAL)
ADMINISTRATOR OF THE ESTATE OF)
MAXIMILIAN PADILLA,)
Plaintiffs,)
vs.) Case No.
HUNTER DOUGLAS WINDOW COVERINGS,) 09 CV 1222
INC., WINDOW COVERING MANUFACTURERS)
ASSOCIATION, WINDOW COVERING SAFETY)
COUNCIL,)
Defendants.)
- - - - -

DEPOSITION OF
JOSEPH F. JANKOSKI
NEW YORK, NEW YORK
October 28, 2010
2:01 p.m.

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FILE NO.: A40A1B4

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DISTRICT

JOSE M. PADILLA, as the Special)
Administrator of the ESTATE OF)
MAXIMILIAN PADILLA,)
Case No.)
09 CV 1222)
Plaintiff,)
vs.)
HUNTER DOUGLAS WINDOW COVERINGS,)
INC., WINDOW COVERING MANUFACTURERS)
ASSOCIATION, WINDOW COVERING SAFETY)
COUNCIL,)
Defendant.)

Deposition of JOSEPH F. JANKOSKI, taken
on behalf of the Plaintiff, at Schiff Hardin, LLP,
900 Third Avenue, 23rd Floor, New York, New York,
commencing at 2:01 p.m., Thursday, October 28,
2010.

A P P E A R A N C E S:

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between
the attorneys for the respective parties herein that
this examination may be sworn to before any Notary
Public.

IT IS FURTHER STIPULATED AND AGREED that the filing
and certification of the said examination shall be
waived.

IT IS FURTHER STIPULATED AND AGREED that all
objections to questions, except as to the form of the
question, shall be reserved for the time of trial.

J. Jankoski

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J O S E P H J A N K O S K I, after having been
first sworn by a Notary Public of the State of New
York, was examined and testified as follows:

BY THE REPORTER:

Q Please state your full name for the
record.

A Joseph F. Jankoski.

Q Please state your current address for
the record.

A. 3 Stratford Way, Morris Plains,
New Jersey.

MR. JAUREGUI: Let the record reflect
this is a discovery deposition of
Mr. Joseph Jankoski taken pursuant to notice
by agreement of the parties and pursuant to
the rules of the District Court of the
Northern District of Illinois in the Federal
Rules of Civil Procedure.

Q. Mr. Jankoski -- is that how you
pronounce your last name, by the way?

A. Yes.

Q. I will be asking you a series of
questions about an incident relating to the death
of Max Padilla who died on April 22, 2008, from

J. Jankoski

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strangulation by a vertical blind, a
Hunter Douglas vertical blind.

I have several documents here. I will
try to economize as much as I can. Hopefully, you
will be familiar with most of them so we will not
have to be here for six hours because nobody wants
to do that.

I asked you earlier, by any chance, if
you had a copy of your Curriculum Vitae. You told
me that you don't have one, and, of course, I
didn't ask for one.

If at some point you can provide your
attorney with a copy of one, I would appreciate
that.

A. Okay.

MR. WILLIAMS: Do you have one that is
maintained?

THE WITNESS: Not one that I maintain.
I haven't used it.

MR. WILLIAMS: You're entitled to ask
for whatever you want, but it's a little
unusual for a non-expert witness --

MR. JAUREGUI: I may not need it. If
you've been there for many, many years at

J. Jankoski

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Hunter Douglas, then I know where you've been
so it may become a moot point.

Q. What is your date of birth?

A. May 26, 1950.

Q. Are you married, sir?

A. Yes, sir.

Q. Do you have any children?

A. One.

Q. How old is your son or daughter?

A. My daughter is 17.

Q. And do you live in New York or
New Jersey?

A. I live in New Jersey.

Q. Can you tell me a little bit about your
educational background.

A. I have a college degree from Saint
Peter's College in Jersey City, and an MBA from
Fairleigh Dickinson University also in New Jersey.

Q. Tell me about your employment history.
You're currently employed at Hunter Douglas?

A. Yes, sir.

Q. When did you first become employed by
Hunter Douglas?

A. The end of 1989.

J. Jankoski

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Q. Prior to that what employment did you have?

A. I worked for a competitor of Hunter Douglas, Levolor.

Q. In what capacity?

A. I started out as a salesperson and ended up in charge of sales and marketing.

Q. How long were you at Levelor?

A. From 1972 through 1989.

Q. What is the current position that you have at Hunter Douglas?

A. I'm vice-president of merchandising.

Q. As the VP of merchandising, what is it that you do?

A. The title doesn't necessarily reflect my role. I'm strategic -- how would I say this? I try to match up consumer demand and retail distribution channels to maximize the brand that we have out on the marketplace.

Q. Is that a position that you hold throughout the country?

A. It's a U.S. position, yes.

Q. That's very broad. Can you be more specific? Is it just related to merchandising of

J. Jankoski

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Hunter Douglas products?

A. It's two-pronged. One is on the retail channels that we do business with, trying to organize them, trying to improve their ability to sell our products through various means of training, of merchandising, projections, marketing, incentives; and the other side of the coin is in the consumer arena where we're trying to locate and stimulate the most likely consumers who could buy our product and get those two groups together.

Q. And when did you become vice-president of merchandising?

A. About five years ago.

Q. What was your position prior to that?

A. I was in charge of the national account group.

Q. What were your responsibilities in connection with that position?

A. Directly manage the national accounts that we had recognized at that time, which was Home Depot, Lowe's, JCPenny, Sears, Montgomery Ward. Large chains, centralized decisionmaking.

Q. For how long were you the manager of

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national accounts?

A. From 1989 through 1995. Well, excuse me, 2005. It doesn't sound right.

Q. I'm sorry, can we try that again?

A. From 1989 to 2005.

Q. Any other positions that you've held at Hunter Douglas?

A. No, sir.

Q. Who is the current president of Hunter Douglas?

A. Marvin Hopkins.

Q. Do you know for how long he's been the president?

A. I need to clarify that. He's president of Hunter Douglas North America.

Q. For how long has he been the president of Hunter Douglas North America?

A. I'm guessing 10 years.

MR. WILLIAMS: That is your one guess for this deposition.

Q. Yes, no more guessing.

A. No more guessing.

Q. Are there any other divisions of Hunter Douglas outside of North America?

J. Jankoski

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A. Yes, sir.

Q. Where else?

A. We do business in 100 countries.

Q. Is the U.S. considered the headquarters
for Hunter Douglas?

A. No, sir.

Q. Where is the headquarters considered?

A. In Rotterdam. The headquarters is in
Rotterdam; the executive office is in Switzerland.

Q. The division here, is it Hunter Douglas
North America?

A. Yes, sir.

Q. When was that company incorporated?

A. I don't know.

Q. Do you know where it's incorporated?

A. I don't know.

Q. Can you tell me the locations in the
U.S. where Hunter Douglas has manufacturing
entities?

A. Today?

Q. Yes.

A. We have a large facility in Broomfield,
Colorado. We also have facilities in Tupelo,
Mississippi; Owensboro, Kentucky; Sacramento,

J. Jankoski

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California; Salt Lake City, Utah; Cumberland, Maryland.

Q. You listed five different locations. Do any of those locations specialize in -- do research and development for Hunter Douglas?

A. We have three groups of research and development teams. One would be located in Broomfield, Colorado. We have a group that is located in Whitesville, Kentucky, and another gentleman who is located up in Boston.

Q. When you say "gentleman," that's just an individual or a facility, a formal company there?

A. It's a formal company, but there's one gentleman who is in particular the lead R&D man.

Q. Now, does Hunter Douglas manufacture window products in the U.S.?

A. Yes, sir.

Q. Does Hunter Douglas also hire companies to manufacture products for Hunter Douglas?

MR. WILLIAMS: I'll just object to the use of the term "hire." If you understand it, explain it.

MR. JAUREGUI: Or contract, subcontract.

A. We have an arrangement with fabricators

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under contractual obligations to fabricate
Hunter Douglas products using Hunter Douglas
components.

Q. So I take it that any fabricators that
Hunter Douglas contracts with, they manufacture
the products according to the specifications
provided by Hunter Douglas?

MR. WILLIAMS: Objection, vague. Go
ahead.

A. Yes.

Q. I mean, they have to use the
Hunter Douglas components, correct?

A. Correct.

Q. Do you know how many fabricators
Hunter Douglas has in the U.S., contracts for the
production or manufacture of window covering
products?

A. Would it be --

Q. Mr. Jankoski, this is not a memory test.
We don't want you to be guessing about anything,
so whatever best memory you have at this time,
that's appreciated. If you don't know the answer
to any questions, I'm sure your attorney will
instruct --

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MR. WILLIAMS: Don't guess, but qualify
your answer any way you need to.

A. There's a company, Mill Supply, in
Connecticut.

MR. WILLIAMS: Are you going to name
them to count them? Right now the question
is how many are there.

Q. It will serve both purposes the way
you're doing it right now, so that's fine.

A. A company called Tentina on Long Island,
Lafayette in Indiana, Beauty View in Wisconsin,
Designer Blinds in Nebraska, Gulf Coast in
Houston, Kaleidoscope in Detroit.

Q. These are the ones that come to mind at
this point?

A. I hope I have them all.

Q. All right. That's fair.

Any of the facilities that are either
owned by Hunter Douglas where window manufacturing
covering -- window coverings are manufactured --
well, first, let's start there. Which one of
those facilities manufacture vertical blinds?

MR. WILLIAMS: Today, you're talking
about?

J. Jankoski

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MR. JAUREGUI: Yes, today.

A. Can I back up and add two additional facilities to the Hunter Douglas organization that I had failed to mention?

Q. All right.

A. Bessemer City, which is in North Carolina, and there is a facility in Fort Lauderdale that's fading out. There is a small facility there.

Q. Well, actually, let me withdraw the prior question that I had put to you before.

Is there something different about the manufacture of vertical blinds that would require them to be produced or manufactured at a certain facility?

A. We have two groups of products at Hunter Douglas: Products that are fabricated by the fabricators, and, in that case, Hunter Douglas sends the fabricator component parts, and they assemble that finished product at their own location.

There is another group of products that we ship out completed, and the fabricator in this case turns into a finished product distributor

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because we do the production for the fabricator and ship him the finished product.

Q. So with that qualifier, is there a specific facility where vertical blinds are manufactured?

A. Vertical blinds would fall into the first group of products that I had mentioned, and that is they're primarily made by fabricators. It was an established product that was easily made and easily shipped from a local facility. So all of the production that was made by Hunter Douglas in that category was produced by a fabricator.

Q. Do you know when Hunter Douglas first started manufacturing vertical blinds?

A. We started in the probably late '80s, early '90s, and it really wasn't a big part of our business until we purchased a company that got us into the business in a bigger way.

Q. And when did that happen?

A. I believe we purchased the company in the early to mid '90s.

Q. And so some time in the mid '90s, Hunter Douglas cranked out the production of vertical blinds?

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J. Jankoski

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A. We got more serious in the category,

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yes.

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Q. And where was that company?

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A. They were in Florida.

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Q. Is that the facility in Fort Lauderdale,

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Florida, today?

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A. Remnants of it, I would imagine.

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Q. Have you seen photographs of the

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vertical blind involved in this case?

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A. Yes, I have.

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Q. As you sit here today, can you tell me

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whether from looking at those photographs you can

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tell where that blind was manufactured?

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A. I could not tell.

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Q. Is there anything, any feature about

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that vertical blind or its components, that will

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enable Hunter Douglas to determine the approximate

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period of time when that blind would have been

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manufactured?

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MR. WILLIAMS: Answer on behalf of

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yourself. He asked you the corporation. If

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there are other individuals who might know,

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you can explain that, but he's only here in

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his personal capacity.

J. Jankoski

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A. Personally, I wouldn't know. Components change over the course of time. I wouldn't know, you know, when they might be introduced.

Q. The window blind at issue here has embossed or engraved on the end of the rail "Hunter Douglas Window Fashion." First of all, is that a division of Hunter Douglas? Does that mean anything to you, or is that just a label that would have been used by Hunter Douglas on any of its products?

A. It would have been a multiple product label.

Q. In the 1990s, mid 1990s, where were the vertical blinds being produced or manufactured for Hunter Douglas?

A. It could have been one of possibly 25 different fabricators, and I'm estimating 25.

Q. And, again, you believe that the window blind at issue was manufactured by one of the fabricators?

MR. WILLIAMS: Independent fabricators?

MR. JAUREGUI: One of the independent fabricators that Hunter Douglas contracts or subcontracts with.

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A. A fabricator, right?

Q. A fabricator.

A. I don't know which one.

Q. And what is it that leads you to believe that this particular blind would have been manufactured by one of the independent fabricators?

A. Because we did not produce finished product vertical blinds as a company. We sourced that through the fabricators in component form.

Q. Who would have information or who would be the person most likely to have information or to know when this blind, the blind at issue, was manufactured and the location where it was manufactured?

MR. WILLIAMS: If you know based upon the information that you have available to you.

A. I'm not sure there is someone who really could pinpoint that. It's a difficult question to answer.

Q. Now, from the answers to interrogatories, I know that Hunter Douglas has dealt with either prior lawsuits or complaints

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about issues having to do with window cord safety issues.

Is there within Hunter Douglas a department that deals with those issues, like when litigation occurs -- other than the Law Department when litigation occurs, someone like a risk management group within Hunter Douglas?

A. No, sir.

Q. Mr. Jankoski, can you tell me what efforts, if any, you are aware that Hunter Douglas undertook to try to determine: 1) when the blind at issue was manufactured, and the location where it was manufactured?

A. I'm not sure of what has been going on internally to determine, if we could, where it was made. I don't know.

Q. Would there be someone within Hunter Douglas that would know the answer to that question?

MR. WILLIAMS: I think that was asked and answered. Go ahead.

Q. If you know.

A. Again, the person closest to the window covering that we're speaking of is a gentleman by

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the name of Ron Rubinoff. That would be the only person that I could think of.

Q. And if there are where is he located?

A. In Bessemer City, North Carolina.

Q. Do you know what his title is?

A. I think he is a general manager of one of our divisions.

Q. Now, you have a facility in Lafayette, Indiana. Was that facility or has that facility at any time produced or manufactured vertical blinds?

A. Yes.

Q. Now, this incident occurred in Chicago, Illinois, right next to Indiana. Would it have made sense, I'll say, distribution or from a distribution perspective to supply the Midwest or a place like Chicago with vertical blinds that would have been built in Indiana?

A. It could. There's also a fabricator who was in Chicago that no longer exists who was there probably, I imagine, in the mid '90s by the name of Acme. They have since gone out of business.

Q. Did Acme ever manufacture, produce or assemble any vertical blinds for Hunter Douglas?

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A. Yes, sir.

Q. And what was the approximate period of time that occurred?

A. I don't recall. I'd be guessing.

Q. Do you know whether the vertical blind at issue here would have been manufactured and assembled in the United States or would that have been manufactured and assembled abroad?

A. In the United States.

Q. And how do you know that?

A. Because we do not produce vertical blinds offshore to sell them in the United States that I'm aware of.

Q. The Hunter Douglas North America Division, do you know the approximate number of employees it had?

MR. WILLIAMS: Counsel, just for technical reasons, you've used the term "division" several times. I don't believe Hunter Douglas North America, the corporate structure, is the way you're describing it.

If you want to ask him how many employees Hunter Douglas North America, Inc., has, that's fine.

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Q. Hunter Douglas North America, do you know how many employees there are?

A. Approximately 7,000.

Q. Now, is Hunter Douglas a public corporation or a private corporation?

A. It's publicly traded on the Amsterdam Stock Exchange.

Q. Is it traded here in the U.S.?

A. No, sir.

Q. This will generate a response from Mr. Williams. Do you know what were the revenues for Hunter Douglas North America for 2009?

MR. WILLIAMS: Relevance objection.

Don't speculate. If you know, you may --

A. Just repeat the question, please.

Q. Yes. For the year 2009, do you know what were the revenues for Hunter Douglas North America?

MR. WILLIAMS: First of all, is that a publicly-available figure in corporate filings in the Netherlands?

THE WITNESS: We don't split it out by geography. Well, it might be --

MR. WILLIAMS: My question goes to

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whether I'll instruct you not to answer on the grounds that that's proprietary information.

There are other legal reasons why it's not relevant, but I'll let you answer it unless there are confidentiality issues.

If you want to think about that and talk about that on a break, we can come back to that question, and let Mr. Jauregui know if you will answer it or not.

A. Can I defer?

Q. That's fine. We will just make a note of it so we don't forget.

Well, let me ask you this question. Do you have any suggestions for plaintiffs in this case of how they can possibly identify when this window blind was manufactured, and where it was manufactured?

MR. WILLIAMS: I'll object on the grounds that that's been asked, and we have given you whatever information we have.

Arturo, I will tell you that the witnesses that you've asked to depose in a few weeks in Owensboro and Whitesville will

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not be able to give you a date. Certainly, they'll be able to help you more there based on some of the questions you asked earlier about components and the like.

Q. Mr. Jankowski, I don't want to prolong the deposition. We have some materials to go through. If at any time you simply -- that's not your area, you can tell me that. Somebody else may have a better answer for me. I'll take that as a good answer. Okay?

A. Yes, sir.

Q. Tell me a little bit about the Window Covering Manufacturers Association. First of all, what is the Window Covering Manufacturers Association?

A. It's primarily a standards organization for the window covering organization in America.

Q. I understand that formally it was known as the Window Covering Manufacturers Association?

A. Correct.

Q. Hunter Douglas has a relationship with the Window Manufacturers Association today, correct?

A. Correct.

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Q. Now, did Hunter Douglas have a relationship with its predecessor, the American Window Covering Manufacturers Association?

A. I believe they did.

Q. Do you know how far back Hunter Douglas had a relationship with either the America Window Covering Manufacturers Association or the Window Covering Manufacturers Association?

A. I think it goes back to almost the beginning, whenever that was.

Q. Would it be fair to say that Hunter Douglas was one of the founding members of the America Window Covering Manufacturers Association?

A. I'm not sure founding would be a way to describe it. It might be one of the original members.

Q. Mr. Jankoski, your name appears on several documents of meetings held or sponsored by the Window Covering Manufacturers Association. When did you first start attending those meetings, if you know?

A. For Hunter Douglas, it was 2001.

Q. Are there other people from

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Hunter Douglas that also are designated for
Hunter Douglas to attend meetings at the Window
Covering Manufacturers Association?

MR. WILLIAMS: Presently?

MR. JAUREGUI: Presently.

A. Yes, there are.

Q. Let me back up a little bit. In 1995,
in the mid '90s, do you know who was the person
from Hunter Douglas that would have been attending
those meetings?

A. O.B. Kelly.

Q. What's Kelly's last name?

A. That's his last name.

Q. Oh, Kelly? I'm sorry. What's the first
name?

A. O.B.

Q. O.P.?

A. O.B.

MR. WILLIAMS: "B" as in boy.

A. "O" as in orange.

MR. WILLIAMS: "Orange" is a lousy word
to choose.

Q. Is this person a woman or a man?

A. He's a man.

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Q. Is Mr. Kelly still employed at
Hunter Douglas?

A. No, he's not.

Q. Is he retired?

A. Yes, he is.

Q. Do you know where he resides?

A. Carolina. North Carolina.

Q. Do you know when he retired?

A. Around 2000.

Q. Is that right around the time when you
would have taken over?

A. Yes. That's the transition time.

Q. Do you have an understanding as to the
reason why Hunter Douglas maintains a relationship
or an association or was a member of the Window
Covering Manufacturers Association back when you
first became affiliated with that entity?

A. Why we would be involved?

Q. Yes. What does Hunter Douglas get out
of association with the Window Covering
Manufacturers Association?

A. It's not necessarily what we get out of
it. It's what we put into it.

Q. All right. What is it that

J. Jankoski

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Hunter Douglas puts into it?

A. We participate in the process of standards writings, which is the primary purpose of the organization.

Q. Now, there's also the Window Covering Safety Council, correct?

A. Yes, sir.

Q. Is that like a sister organization of the Window Covering Manufacturers Association, if we can use that term?

A. You could call it that.

Q. All right. Do you know who's the president of the Window Covering Manufacturers Association today?

A. Yes, I do.

Q. Who is that?

A. That would be me.

Q. When did you become the president?

A. 2005.

Q. How did that come about? Was there an election held?

A. The existing president left the industry, and I took over for him as the existing vice-president at the time.

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Q. What are your duties as president of the Window Covering Manufacturing Association today?

A. We conduct on an annual basis a product innovation awards competition, and review the output of the industry in terms of their new innovations. We provide a forum for the industry to showcase their innovation, so we run that event.

We are, again, very much involved with the CPSC to develop standards. That's our primary role, as I mentioned earlier.

Q. Is there an executive director for the Window Covering Manufacturers Association?

A. Yes, sir.

Q. Who is that?

A. Ralph Basami.

Q. Can you spell the last name, please?

A. B-a-s-a-m-i.

Q. And when did Mr. Basami become the executive director of the Window Covering Manufacturers Association?

A. Maybe four years ago.

Q. Do you know how that came about?

A. He replaced a lady who had left.

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Q. Mr. Peter Rush, is he associated with the Window Covering Manufacturers Association?

A. He's the president of Kellen. Kellen is the company that we use to manage the association.

Q. Where is Kellen located?

A. They have multiple offices around the world. They do have an office here in New York City.

Q. So is Kellen a management type organization?

A. Yes, sir. They have other associations that they also manage.

Q. I understood that as of 2006, Mr. Peter Rush was the executive director of the Window Covering Manufacturers Association. Is that your understanding?

A. Ralph replaced Caroline Jennings, and if she was not the executive director, then I assume that it was Peter. I don't know. I don't recall what their exact titles were at the time.

Q. Do you know who's the executive director of the Window Covering Safety Council today?

A. There are two trustees -- three trustees, I'm sorry. Three trustees.

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Q. What are their names? Do you know them?

A. Tom Merker.

Q. Can you spell the last name, please?

A. M-e-r-k-e-r; Mike Ceinian; and I believe Peter Rush.

Q. Do you know when the three-trustee structure went into effect?

A. There's annual reviews of that, so the last annual meeting was held in conjunction with the trade show that was in March or April of this year.

Q. So that when the structure changed, is that when the three trustees took over the management of the Window Covering Safety Council?

A. There might have been a different group of three, but that was when this group of three were elected in.

Q. All right. Again, I understood that as of February of 2006, Peter Rush was the executive director of the Window Covering Safety Council. Do you know when he stopped being the director?

A. It must have been when Ralph Basami came in. I can't speculate.

Q. Do you know what prompted the change in

J. Jankoski

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the management of the Window Covering Safety
Council?

A. The change in the Window Covering Safety
Council?

Q. Yes, the management.

MR. WILLIAMS: Objection. Misstates the
testimony.

A. It's reviewed annually. It's updated
annually.

Q. And what happened during these reviews?

A. An elections was held, and these three
were decided on as being the trustees.

Q. All right. I will speak to Mr. Rush
tomorrow. He will probably be able to answer
these questions.

What role has Hunter Douglas played
within the Window Covering Safety Council?

MR. WILLIAMS: Since its inception?

MR. JAUREGUI: Since its inception, yes.

A. We are an equal member along with other
manufacturers, other retailers, other suppliers of
components and sales materials, other suppliers of
the industry. It's a multifaceted organization.

Q. What is the primary purpose of the

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Window Covering Safety Council as you understand it?

A. It's to get the word out on child safety.

Q. Do you know when the Window Covering Safety Council was created?

A. No.

Q. Would 1994 or thereabouts sound right to you?

A. It would make sense. It sounds right. I can't recall.

MR. WILLIAMS: Don't speculate. If you've got a basis, answer it. If you don't know, somebody else will.

Q. Is Hunter Douglas one of the leading or the biggest manufacturer of window coverings in North America? And that would include, obviously, the United States.

A. Could you define "big"?

MR. WILLIAMS: Measured by what?

A. Measured by what?

Q. I've seen literature, and we'll go through some of the documents in a minute. I understood Hunter Douglas was one of the leading

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producers of window covering products measured by the amount of products that they sell on the market by the amount of revenue. Is that a correct statement or not?

MR. WILLIAMS: That's compound. Go ahead.

A. That would be a very different measurement, very different measurements.

Q. All right, that's fine. There are many other manufacturing companies in the United States that manufacture window coverings. Is that correct?

A. Yes, sir.

Q. Is it a fair statement to say that Hunter Douglas is one of the largest manufacturers of window coverings in the United States?

MR. WILLIAMS: Same objection as mentioned by what he just said.

Q. By any measurement that you'd like to use, by any criteria.

A. If I give you an answer in units or I give you an answer in dollars, they're two different answers.

Q. I'll take either of those or both.

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2 A. Well, we're not the biggest in terms of
3 units. We are among the larger ones with regard
4 to dollars.

5 Q. If you were to rank the largest window
6 covering producing companies in North America,
7 what would be the pecking order? Who would be up
8 on top?

9 MR. WILLIAMS: By units sold?

10 MR. JAUREGUI: By units sold.

11 A. Springs, Springs Industries. The reason
12 I'm thinking here is because the window coverings
13 could be custom made or stock in a box. They're
14 still a unit. It's still a unit of product.

15 Q. That's fine. If we use the criteria of
16 revenue, who is the largest?

17 A. In revenue, we would be first and
18 Springs probably would be second.

19 Q. Do you consider the information that is
20 generated by the Window Covering Manufacturers
21 Association to be a reliable source of information
22 for the window covering industry?

23 MR. WILLIAMS: Objection, vague and
24 compound. Go ahead, only if you understand
25 it.

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A. Could you repeat it one more time, please?

Q. Certainly.

You told me earlier that the Window Covering Manufacturers Association, one of their primary objectives is to put out standards for the window covering industry. Is that correct?

A. That's correct.

Q. All right.

Now, so the question then is, do you consider the information that is generated or the standards that are put out by the Window Covering Manufacturing Association a reliable source of information for the window covering industry?

MR. WILLIAMS: Same objection.

A. I would say it is a reliable source, yes.

Q. And the reason for that is because Hunter Douglas is a member of the organization?

A. No.

Q. Okay. You find it reliable for what reason, then?

A. It is the primary source of information.

Q. When it comes to standards?

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A. Yes, sir.

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Q. What about on the issue of window

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safety? Who or what entity do you consider the

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primary source of information on window covering

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safety?

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MR. WILLIAMS: Objection, vague.

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A. The Window Covering Safety Council.

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Q. For how long have you known

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Mr. Peter Rush?

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A. Approximately 15 years.

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Q. Then, I take it, you have a business

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relationship with Mr. Rush?

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A. Yes.

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Q. And the reason why I ask is because I

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want to ask you if -- do you socialize with

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Mr. Rush outside of work, outside of the official

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role that you have as representative of

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Hunter Douglas?

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A. No, I do not.

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Q. How does Hunter Douglas keep itself

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informed of the developments that are going on in

23

the window covering industry?

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A. We participate directly with all the

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initiatives that are going on.

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Q. Is the Window Covering Manufacturers Association a primary source of information as to the latest developments that are going on out there in technology that is related to the window covering industry?

A. No, I wouldn't say that's the source for technology. No.

Q. Where would be the source of technology? Is that within the industry itself, or is there another entity out there similar to the Window Covering Manufacturers Association?

A. Could you just elaborate on what you mean by "technology"?

Q. Any new improvements that are out there, technology that is being developed in a company such as Hunter Douglas -- would consider whether or not to use it in its products, that kind of thing?

MR. WILLIAMS: You're asking what's the source of information among these companies who are in the business in the industry?

MR. JAUREGUI: Yes, whether or not there are any entities out there where the information is centralized, and if

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Hunter Douglas wants to know what's going on,
Hunter Douglas would go there and get the
information.

A. There is no common depository for that
type of information. The only thing that comes
close to that would be where the Window Covering
Manufacturers Associations innovation awards event
on an annual basis comes and brings the products
that are ready to go to market, gives that
exposure.

Q. When Hunter Douglas wants to bring out
an issue, a safety concern issue, do you as a
representative of Hunter Douglas bring that issue
to the attention of the Window Covering
Manufacturers or the Window Covering Safety
Council, then that issue gets discussed and it's
shared with the rest of the industry, or how does
that work?

A. No, not necessarily, no.

Q. How does it work when Hunter Douglas has
a safety issue that is effecting -- such as window
cord safety, for example?

A. Well, the --

MR. WILLIAMS: Wait, I'm sorry, what's

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the question? Repeat it please for me?

MR. JAUREGUI: The question is, when Hunter Douglas has a concern over window cord safety in window covering products, is that an issue that is brought up outside of Hunter Douglas, discussed with other members of the Window Covering Safety Council, or is that primarily handled inside within Hunter Douglas?

MR. WILLIAMS: I have to object. It's vague and ambiguous. If you understand it...

A. I can't imagine a concern that we would have that -- I'm not really following the scenario that you're trying to describe.

Q. That's fine.

Do you know when the issue of window cord safety first became a concern for Hunter Douglas? Is there a point in time when Hunter Douglas learned that this was window cord safety -- especially, window cord loop products with outer window cord became a concern for Hunter Douglas?

MR. WILLIAMS: The question changed midstream. I want to make sure you answer

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the question. Window cord safety generally
or loop cord?

MR. JAUREGUI: Let me just withdraw that
question.

Q. When did Hunter Douglas first learn that
outer loop window cords presented a danger of
strangulation to young children?

MR. WILLIAMS: Objection. Go ahead.

A. I really don't know since I started
there in late '89 or '90 if there was any activity
prior to me joining the company. I wouldn't know
when that began.

Q. So you understand that at least since
you joined the company back in 1999, that was an
issue that Hunter Douglas was already aware of,
that loop window cord coverings presented a danger
of strangulation to young children?

A. It was '89?

Q. Yes, 1989.

A. Yes, there was.

MR. WILLIAMS: Don't speculate as to
what happened before you got there.

THE WITNESS: I already said that I
don't know what happened before I got there.

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Q. But I just want to make sure I understand your testimony here today. As of 1989 when you came on board and started working at Hunter Douglas, Hunter Douglas was already aware that outer window cords that formed loops presented a potential danger of strangulation hazard to young children. Is that a fair statement?

MR. WILLIAMS: Objection, vague and ambiguous and argumentative in your characterization of the "danger" and "hazard."

A. They were participating in industry activity that addressed child safety at the time.

Q. And is that because Hunter Douglas was aware that there were some safety concerns of strangulation of young children by window covering loop cords?

MR. WILLIAMS: If you know.

A. I don't know.

MR. WILLIAMS: I mean, he's asking you about before you got there.

Q. In 1989 when you got there.

A. I believe we were involved with -- the

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entire industry was aware of that.

Q. All right. And you told me before, I mean, you had been involved with the window covering industry for many years, correct?

A. Yes, sir.

Q. Is that since 1975 that you told me?

A. 1972.

Q. 1972? That's at the position that you had at Levolor?

A. Yes, sir.

Q. And when you were at Levolor, were you aware as an employee of the window covering industry of the dangers of strangulation by outer loop window cord for young children?

MR. WILLIAMS: Objection, vague as to time. There's 17 years there that you're lumping together, and also he wasn't an employee of the window covering industry.

A. During my tenure, during the 17 years at Levelor, towards the end of that period, the window covering safety issue became an industry issue.

Q. When you say they became an industry issue, what do you mean by that?

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A. General awareness of the product and potential dangers were being discussed.

Q. Now, in 2008, do you know if the Window Covering Manufacturers Association had any employees?

A. I don't know if we had employees. They're Kellen employees.

Q. And of the Kellen employees, do you know how many Kellen employees were working exclusively for the Window Covering Manufacturers Association in 2008?

A. I don't know.

Q. What about the same question in 2008? Do you know if the Window Covering Safety Council had any employees?

A. I don't know.

MR. WILLIAMS: When you reach a logical break -- it's been a little over hour.

MR. JAUREGUI: Okay. If you want to take a quick break, that's fine.

MR. WILLIAMS: I'd just like to keep to a schedule.

(A recess was taken from 2:59 p.m. to 3:05 p.m.)

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BY MR. JAUREGUI:

Q. Mr. Jankoski, I understand that you started attending the meetings, I thought you told me, for the Window Covering Safety Council?

MR. WILLIAMS: Manufacturers Association.

MR. JAUREGUI: Yes.

Q. The Window Covering Manufacturing Association around 2007?

A. Yes, when O.B. Kellen left.

Q. If you know the answers to the following questions, you let me know. At some point there was a retrofit program action plan back in 1995, 1996. Do you recall that?

A. Yes, I do.

Q. All right. And I understand that the Window Covering Safety Council was specifically created to carry out the wishes of the window covering industry and address the concerns over window blind cord safety.

MR. WILLIAMS: There's no question yet. I'm just waiting for you to form a statement.

Q. Is that a fair statement?

MR. WILLIAMS: Here's where I don't want

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you to speculate as to the intent of others
or things like that. Speak to your personal
knowledge only.

A. As I stated before, the Window Covering
Safety Council is the group that intends to get
the word out to the public, and that would be an
appropriate activity for them to participate in,
yes.

Q. So you understand, the Window Covering
Safety Council was specifically designed or
created to deal with safety issues dealing with
window covering cords, getting the information out
to parents, to the general public?

MR. WILLIAMS: It misstates his
testimony. Go ahead.

A. To increase awareness at the consumer
level.

Q. Do you know whether at the time when
this awareness or public relations window covering
cord safety was being implemented or developed,
were there any safety experts that worked with the
Window Covering Safety Council and the Window
Covering Manufacturers Association?

A. Back in 19 --

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Q. Yes.

MR. WILLIAMS: Finish your clarification question. Back in the mid 1990s?

MR. JAUREGUI: Yes.

A. I don't recall any expert safety person or group.

Q. Do you know whether at that time when the -- let's use the name because that will shorten it -- can we just call it a retrofit campaign? Is that fine? Because I know from 1995 -- when did that go into effect?

A. '95 or '96.

Q. Okay. So let's call it the retrofit '95-'96 campaign. Do you feel comfortable with that?

A. Sure.

Q. Okay.

Do you know whether either the Window Covering Safety Council or the Window Covering Manufacturers Association had any human factor experts that would have worked on the program before the retrofit action plan of '95-'96 was implemented?

MR. WILLIAMS: You're asking about

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outside consultants as opposed to people with
that expertise in the various companies?

MR. JAUREGUI: Yes, people that were
working directly with the Window Covering
Safety Council.

A. I can't recall any.

Q. Now, at the time when the '95-'96
retrofit campaign was going on, I understand that
Mr. Peter Rush was also providing management
services to several other companies. Were you
aware of that?

A. No.

Q. If the Window Covering Safety Council
was designed to educate the public about window
cord safety, did you have an understanding as to
the number of units out there in consumers' homes
in the United States that posed problems of
strangulation with the outer window blind cords?

MR. WILLIAMS: I don't understand the
preamble. Objection, vague.

A. I'm breaking down your question into
two.

MR. WILLIAMS: Tell him it's compound
and ask him to rephrase it rather than

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breaking it down because you might miss something that he's asking you.

A. Could you repeat it so I'm clear on this?

Q. That's fine.

The Window Covering Safety Council was designed to address safety concerns dealing with window cord. Is that correct?

A. Correct.

Q. Window covering cords?

A. Correct.

Q. All right. Do you know the number of units that were in U.S. consumers' homes that presented the type of concerns or safety issues that the industry was trying to address through the Window Covering Safety Council?

A. No, we wouldn't know that.

Q. Does it range in the millions?

A. There potentially are millions. Not every window covering has a cord, so you would have to calibrate that into the equation.

Q. Let's take a different approach. In 1996, the Window Covering Manufacturers Association in conjunction with the industry

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members developed one of the first standards. Is that correct?

A. Yes, sir.

Q. And that became known as the Window Covering Manufacturers eight one hundred point one standard?

A. It was an ANSI process, correct.

Q. And what is your understanding of what that standard required the window covering industry to do?

MR. WILLIAMS: Objection, vague and compound. There are a lot of requirements in there. Go ahead.

A. A standard doesn't require an industry to do certain things. It is a standard to define product performance. That particular standard addressed the issue of a looped cord.

Q. Did the standard suggest ways to address the issue of the looped cord?

A. That would be a prescriptive standard, and we have not -- we try to avoid prescriptive standards. We define what the problem is and allow the industry to address it in a way that fits each individual company's situation.

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Q. So it was a standard, but it was not mandatory. You would call it a voluntarily standard?

MR. WILLIAMS: No, it misstates his testimony. Go ahead.

A. The standard is voluntary only from the point of view that the industry voluntarily creates a standard in conjunction with the CPSC, but once the standard is in existence it's mandatory to follow.

Q. So the first standard to address the issue of looped cords -- when was that implemented?

A. I believe it was 1996.

Q. And as you understand it, what did that standard provide for?

MR. WILLIAMS: Objection. It speaks for itself. It's a written document and this isn't a memory test for your recollection of every provision of the standard. If you can summarize it, go ahead, but don't speak beyond what you know.

A. The primary purpose was to address the looped cord issue.

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Q. Before 1996, were there any standards out there that provided for -- provided guidelines to the window covering industry as to how to address the issue of the looped cord, as you call it?

A. 1996 was the first ANSI standard that was provided by the industry. Prior to that, there were standards but based on more commercial applications of product: The thickness of metal, the size of cords, used primarily for bidding purposes on large contract jobs.

Q. Prior to 1996 before that standard was implemented, the 1996 standard, did Hunter Douglas have any internal standards or guidelines to manufacture vertical blinds with outer looped cords?

A. Yes.

Q. Do you know what those standards or guidelines were?

A. We produce custom-made window coverings that are made one at a time for customers who have the choice to design it on their own based on the amount of color, style, fabric, control options, width and length to an eighth of an inch. We

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provide a number of options for them to chose from.

I wouldn't call it a standard. We have multiple models for them to choose from, and they make a decision based on their own needs. We had a product in the marketplace that didn't require cords in that time frame.

Q. All right. I don't think you answered my question so we'll try it again.

Did Hunter Douglas prior to 1996, if you know, before the 1996 standard was implemented, did it have any guidelines or standards that it followed in producing vertical blinds with outer looped cords such as the one at issue in this case?

MR. WILLIAMS: Not necessarily safety standards, but any standards at all?

MR. JAUREGUI: Any standards at all for the manufacture of vertical blinds with looped cords such as the one that we have in this case.

A. Since our fabricators produced the product, there were guidelines on how to produce that product.

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Q. And when you say there were guidelines, where would those guidelines have come from?

A. The organization responsible for the product, in this case, the vertical blind group.

Q. But I thought you told me earlier that when Hunter Douglas used fabricators to fabricate products for them, they would use Hunter Douglas components. Yes?

A. Yes.

Q. And they would -- also, the fabricators would also manufacture or make the window coverings pursuant to the specifications required by Hunter Douglas?

A. Yes.

Q. All right. So if Hunter Douglas is providing the specifications to build or manufacture the units, doesn't it follow, then, that Hunter Douglas is also providing the guidelines to follow, the standards to follow; for example, how long the outer cords should be, the type of material, the pull force that the nylon cord or the beaded chain should have?

A. No. That would be a customer decision, a consumer decision.

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2 Q. Sir, you mean to tell me that if the
3 Padillas had ordered the window covering in this
4 case, which they did not, but if they had ordered
5 that, they would have been able to choose the type
6 of cord that they wanted, the strength of the cord
7 in terms of the pound pull force, the type of
8 chain that they wanted, and how long both the
9 nylon cord and the chain should be?

10 A. They couldn't choose the material, but
11 they could choose the length of the cord.

12 Q. The window blind at issue in this case
13 had a nylon cord and a metal beaded chain, they're
14 called by the industry, known as outer cords or --

15 A. Operating cords.

16 Q. -- operating cords?

17 A. Yes.

18 Q. All right, and these are all looped
19 cords that are dangling on one of the sides of the
20 blinds.

21 Is it your testimony here today that it
22 was the customers that decided the length of the
23 cords that should be included in the blinds such
24 as the one that was involved in this case?

25 A. We give the consumers the option to

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choose the length of the cord they wish.

Everything we make is custom ordered, so if they want a cord a specific height, we try to accommodate the consumer's request. If they don't say anything or they don't have a preference, we would default to a predetermined size based on the height of the window.

Q. And what would be the default size for a blind, a vertical blind such as the one at issue in this case, if you know?

A. It's a formula that measures the distance from the floor to the window sill, and then from the window sill to the top of the product, and the cord length is determined based on the height of a typical adult so that they could access that. So it would be a variable default based on position of the window on the wall. We ask for sill height to produce the order.

Q. So it is the height between the floor and the ceiling that determines -- and the size of the blind that will determine the length of the cord?

A. On a default, yes.

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Q. Do you have any sense of in the mid '90s, 1995-1996, the approximate number of vertical blinds with outer cords such as the one at issue in this case that would have been sold by Hunter Douglas?

MR. WILLIAMS: In a given year, 1995-1996?

MR. JAUREGUI: The two years.

A. I don't know.

Q. Is that information that is stored somewhere?

A. Not that I'm aware of.

Q. As a percentage of products, do you know what percentage vertical blinds makes of the overall percentage of other nonvertical blinds that are sold and produced by Hunter Douglas?

MR. WILLIAMS: Currently?

MR. JAUREGUI: In the mid '90s.

A. I couldn't recall.

Q. Currently?

A. From Hunter Douglas's production?

Q. Yes.

A. Ten percent or less.

Q. Do you know which is the type of window

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coverings that are most often involved in fatalities, strangulations of children from window cords?

MR. WILLIAMS: Objection, vague and ambiguous. Go ahead, if you understand it.

A. Stock mini blinds.

Q. Any other type of products that come to mind?

A. No.

Q. As of today, do you know the approximate number of children that have died as a result of strangulation from window blind cords?

MR. WILLIAMS: Objection. Without him being an expert in causation issues or things like that, you're talking about the total number in which there is a claim that the death was associated with entanglement in a window blind cord?

MR. JAUREGUI: Correct.

A. Just what has been published, what I read, and some of those numbers vary from report to report, so I could go by what the CPSC produces.

Q. What numbers are those? What are the

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numbers, if you know?

A. I looked at it last month, but I don't want to say without being correct.

Q. Was it more than 300?

A. Again, I don't recall the exact number.

Q. If the number of strangulations from vertical blinds is much smaller than the number of strangulations that are caused by other window coverings that are not vertical blinds, can that be explained by the fact that there is a much smarter percentage or number of vertical blinds that are produced in a given year?

MR. WILLIAMS: I'm going to object to that. That isn't just a math question, but it gets into areas of expertise in terms of human force because you've asked about being caused by.

So I will allow you to answer, but I'll caution you not to get into making conclusions that you don't think you're qualified to make.

A. I think the vertical blind arena is a lot larger than the Hunter Douglas piece of it, so, again, there were -- that product was offered,

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not only in a custom format, but also in a stock format available at many home centers and still are available at home centers. So it's a much larger category than the Hunter Douglas portion of it.

Q. I thought earlier you told me that you believe that -- about the production or the percentage number for Hunter Douglas of vertical blinds, it's about 10 percent of the overall production. Is that correct?

A. Yes.

Q. Do you believe that percentage is representative of the rest of the industry?

A. I believe the industry is larger than that.

Q. Do you have a sense of how much larger?

A. No.

Q. What makes you believe that the rest of the industry is producing a larger percentage of vertical blinds than Hunter Douglas?

A. First is that there are a lot of stock products available to the consumer at very reasonable prices that are premade in a box that are primarily used for patio doors and larger

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windows that are very large sellers in the home center category.

There is also a lot of independently owned and operated people producing vertical blinds out there that are not a part of the Hunter Douglas organization.

Q. The Hunter Douglas vertical blind involved in this case, do you have any reason to believe that that was a custom-made blind?

MR. WILLIAMS: Objection.

A. Do I have any reason to believe that?

Q. Yes.

MR. WILLIAMS: Objection, asked and answered. He has testified that all Hunter Douglas products are custom made, so if there's some other point to that, I don't understand the question. Objection, vague and ambiguous.

A. Yes, I have reason to believe that it's a custom-made blind, yes.

Q. And what leads you to that conclusion?

MR. WILLIAMS: Same objection.

A. Because we don't make stock products.

Q. Do your fabricators make any stock

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products?

A. No, sir.

Q. Do you know if Hunter Douglas had any concerns about the ability of the Window Covering Safety Council to carry out the task of educating the public about window cord safety in the retrofit campaign?

A. No.

Q. Was Hunter Douglas confident that the Window Covering Safety Council had the ability to undertake the retrofit campaign of 1995 and 1996?

MR. WILLIAMS: Objection. He's asking about the company, not Joe Jankoski. And you weren't sitting in the seat you're sitting in today, so keep that in mind when you answer the question.

A. I believe so.

Q. Did Hunter Douglas ever, to your knowledge, raise any concerns about the ability of the Window Covering Safety Council to carry out the task of advising the public about the dangers of strangulation posed by looped cords?

A. Could you repeat the beginning of that, please?

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MR. JAUREGUI: Could you read the
question please?

(The Record was Read.)

A. No, sir.

Q. Do you know what other companies made
out the membership of the Window Covering Safety
Council back in 1995-1996?

A. It was a combination of retailers,
suppliers, manufacturers. I don't know exactly
what the roster was.

Q. Do you know if any of the other members
of the safety council raised any concerns about
the ability of the Window Covering Safety Council
to carry out the task of advising the public about
the dangers of strangulation from loop window
cords?

A. I'm not aware of any because we were all
a part of creating that plan.

Q. Do you know how much -- what was the
budget that was allocated to carry out the
retrofit campaign of 1995-1996?

A. No.

Q. Do you know how much was the amount of
money that Hunter Douglas contributed to carry out

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the public information campaign of advising the public about the dangers of window blind cords?

A. I don't have that with me, no.

Q. Did anybody raise any concerns as to whether or not the money that was being allocated to carry out the retrofit campaign was sufficient to meet the demand?

A. We all thought we had a plan that was going to be effective.

Q. Do you have an opinion as to whether or not the manner in which the Window Covering Safety Council carried out the retrofit campaign of 1995 and 1996 -- whether that was successfully done?

A. I think it was well executed.

Q. What do you base that on?

A. The creation of web sites to allow consumers to get access to the repair kits free of charge on a 24/7 basis; the establishing of 800 toll free numbers to give access to consumers to get free retro repair kits on an as-needed basis; spreading the word out throughout the organizations that are members of the Window Covering Safety Council so that the trade was well aware of what we were doing so that they could get

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involved with consumer outreach and local activities.

It was the first time this was ever attempted in our industry, and I thought it went pretty well.

Q. Prior to 1995-1996, do you know if the Window Covering Safety Council had been engaged in conducting any retrofit programs in the past?

A. Prior to '96?

Q. 1995/1996.

A. I'm not aware of any.

Q. Did that cause any concern to anyone in the industry, including Hunter Douglas?

A. With what regard, concern?

Q. That you had a brand new organization that had no prior experience in handling a retrofit campaign of this magnitude.

A. We were being managed by a company who had association experience and felt comfortable that we were being managed properly.

Q. And who was that organization?

A. That was Kellen.

Q. Kellen?

A. Yes.

J. Jankoski

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Q. Mr. Jankoski, correct me if I am wrong, I thought that back in 1995-1996 during the height of retrofit campaign, Mr. Peter Rush was affiliated with a management association by the name of Sumner Associates. Does that ring any bells?

A. Yes, it does.

Q. So when did Kellen come into the picture here?

A. Thank you for refreshing my memory. I think Sumner was Kellen before Kellen became Kellen. You know, I don't know exactly when that transition occurred. They might have changed the name on their door, but we were dealing with Peter Rush from that point on.

Q. So is it your understanding that you were dealing with Kellen or Sumner Associates?

MR. WILLIAMS: In '95-'96?

MR. JAUREGUI: Yes.

A. In '95, I assume now that you've refreshed my memory, it was Sumner.

Q. Do you have a sense of how many employees from Sumner Associates or Kellen were assigned to work exclusively for the retrofit

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campaign of 1995-1996?

A. I don't know.

Q. Did you ever see any data that assured your belief that the Window Covering Safety Council did a good job in educating the public -- and by that I mean, did you ever see, like, the number of telephone calls they received on a monthly basis or a weekly basis?

Did you ever see any data regarding the number of retrofit kits that were sent out to consumers or to distributors in the industry?

Did you see any of that information, again, that would have assured you that things were working out the way Hunter Douglas would have envisioned it?

MR. WILLIAMS: I'm just going to the object to the end of that question when you added your conclusion that would have assured you. First you asked him whether a lot of things had happened which are historical facts.

Whether they would have assured you or not, did you receive any of the things that he asked you about?

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2 A. There were reports available to document
3 the amount of kits that were shipped and the
4 amount of impressions that being were made based
5 on various PR campaigns and marketing initiatives.

6 Q. Were you ever made aware of any concerns
7 that the number of kits that were being sent out
8 were not sufficient to correct the problems with
9 the units that you had out there in households?

10 MR. WILLIAMS: Objection, vague as to
11 what you mean by correct the problems with
12 the number of units you had out there in the
13 households. Go ahead.

14 A. I didn't draw that conclusion that we
15 were underperforming or over performing.

16 Q. The retrofit kits that were sent out,
17 what was the purpose? What were the retrofits
18 intended to do?

19 A. To eliminate a design that was very
20 common especially in the metal blind area where
21 there was a tassel at the end of a looped cord,
22 and underneath the tassel was a knotted -- the
23 cord itself was knotted so the knot plus the
24 tassel formed a natural loop that was free hanging
25 in front of the product.

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The retrofit kit instructed the consumer to cut that tassel and the knot off and to retie the ends of the two remaining cords and attach it to two additional tassels that was in the box, in the bag.

Q. Did the retrofit kit address any issues on how to advise consumers on what to do with the outer looped cords and how to remove the potential for choking or strangulation from looped cords?

A. The outer looped cords?

Q. Yes.

MR. WILLIAMS: I thought he just answered that.

Q. This is just for illustration purposes. I'm showing you a document here which I downloaded from the Internet yesterday, and it's regarding a meeting held by the U.S. Consumer Product Safety Commission. It's the meetings in April 2004. Just so that we understand each other, when I say a looped cord, is that what you also understand?

A. The product that I was referencing would be the cord that operates the horizontal product.

Q. Again, just for illustration purposes, let me see if I have a -- hold on a second. Let

J. Jankoski

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me show you the real McCoy here.

You've seen pictures of the window blind in this case, correct? You told me that?

A. Yes, sir.

Q. Sir, I'm going to show you what has been previously marked as Exhibit 3H in this case, and it's a photograph that was taken by the Oak Forest Police Department which investigated this incident.

MR. WILLIAMS: This is 3H?

MR. JAUREGUI: 3H and 3I.

Q. I can represent to you, Mr. Jankoski, that if you look at Exhibit 3I, it has two cords to the right of that blind: One is a metal beaded chain, and one is an nylon cord. Do you see that?

A. Yes, sir.

Q. Just so that we're on the same page, can we call those the outer looped window cords? Is that a correct term?

A. As long as I understand what you're referencing, that's fine with me.

Q. All right. So the question is, the retrofit that was sent out to address the hazards presented by looped cord, how would the retrofit

J. Jankoski

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had fixed the problem here in this case?

MR. WILLIAMS: Objection. Go ahead.

Q. What would the retrofit kit advise the consumer to do in this case if they were concerned about the danger of the window blind cords?

MR. WILLIAMS: I'm going to pose the objection that the documents, the publicity documents announcing the terms of the retrofit campaign speak for themselves. If you want to testify as to your memory, go ahead.

A. I think what I earlier referenced was the repair kit for horizontal products. There was a repair kit for vertical products, which is what's in the picture. And they represent a different kind of loop. It's not a loop that has a knot with a tassel. It's, as you would call it, a free-operating cord loop. And to remedy that, there was a different repair kit for a device to provide tension and secure that cord to a surface.

Q. Is that called a tensioning device?

A. That's one way to call it, yes.

MR. WILLIAMS: Objection to the question.

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Q. Does it have any other name?

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A. This business has a lot of different ways to describe a lot of different things over the years, you know, 15 years worth of language, but "tension device" is a common term.

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Q. Were the tensioning devices part of the

8

'95-'96 retrofit plan?

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A. Yes, sir.

10

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Q. So if a tensioning device would have

12

been sent to the Padilla family, what would it have done to the cords here that you see on

13

Exhibit 3I?

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A. They would have been -- they would have

provided a taughtness to the loop, attach it to a

wall or a floor, and render it -- it would

17

eliminate it from being a free-hanging loop.

18

19

Q. And in doing that, would that have

eliminated the risk of strangulation to young

20

children?

21

A. We believe so.

22

23

Q. If you know, for how long had the

tensioning devices been around prior to '95-'96?

24

A. No.

25

Q. Have they been around-- were tensioning

J. Jankoski

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2 devices such as the one you described earlier for
3 me that would have been containing a retrofit kit,
4 were they available prior to 1995?

5 A. Yes, I think the drapery industry used
6 them quite extensively as well as being applied
7 to...

8 Q. Did Hunter Douglas -- I'm sorry, did you
9 finish your answer?

10 A. Yes, I did.

11 Q. Did Hunter Douglas use tensioning
12 devices or did it provide tensioning devices to
13 consumers when it sold vertical blinds such as the
14 one at issue in this case?

15 A. Yes.

16 Q. Was that included with the materials or
17 components that would have come with the window
18 blind at the moment it was sent to the consumer?

19 A. Yes.

20 Q. When did Hunter Douglas start using
21 tensioning devices?

22 MR. WILLIAMS: If you know, obviously.

23 A. I don't know.

24 Q. So as you sit here today, do you know
25 one way or the other whether the window blind at

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issue would have contained a tensioning device at

3

the time it left Hunter Douglas's hands?

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MR. WILLIAMS: Without knowing anything

5

else about the consumer's specifications?

6

MR. JAUREGUI: Yes.

7

A. Me personally?

8

Q. Yes.

9

A. I would not know.

10

Q. Do you know who might know the answer to

11

that?

12

A. No, I don't.

13

Q. How expensive are these tensioning

14

devices?

15

A. Less than a dollar.

16

Q. So did Hunter Douglas embrace the

17

tensioning device as a solution to address the

18

problem posed by the outer looped cord such the

19

one that is contained by Exhibit 3I?

20

MR. WILLIAMS: Objection, vague as to

21

what you mean by "embrace." Go ahead.

22

A. We included it, and it was -- I guess

23

you can call it embracing.

24

Q. If you have another word, please.

25

MR. WILLIAMS: You made it available,

J. Jankoski

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correct?

THE WITNESS: Yes, we made it available.

Q. And you made it available because you thought it would be a good solution to eliminate the danger of strangulation to young children?

MR. WILLIAMS: Only or as one of the reasons?

MR. JAUREGUI: As one of the reasons.

A. As one of the reasons.

Q. All right. What other reason would you have provided the tensioning devices?

A. Aesthetics. It looks nicer if it's tucked away. Practical reasons, why you might not want to vacuum up the cord if it's too long laying on the floor getting entangled with other home furnishings, plants, draperies.

Q. Aesthetic reasons?

A. A combination of aesthetic/practical.

Q. Mr. Jankoski, Exhibit 3I, do you have any knowledge as to whether the length of the cords that are depicted there were necessary in order to operate the mechanism of the vertical blind?

MR. WILLIAMS: From an engineering

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standpoint?

MR. JAUREGUI: From any standpoint.

Q. I mean, did the length -- did the cords need to be that length in order to operate the vertical blind in this case to, you know, open and close the shades and open the slats.

A. I'm sure that there's a variance that it couldn't be changed to, but it would still be operational.

Q. Do you know what that variance would be?

A. The point, we try to make it available to an average consumer, adult consumer, to operate the product as they stand next to it. So could it be shortened a little bit? I guess it could. Could it be lengthened? Yes, it could. It would provide the same functionality. Again, it's most of the time a consumer preference.

Q. The window blind that is depicted on Exhibit 3I, if it had had the nylon cord and the metal beaded chain lengths of not more than seven and one quarter of an inch, could you still operate the blinds?

MR. WILLIAMS: Objection, incomplete hypothetical, but go ahead.

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J. Jankoski

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A. You probably could.

Q. Mr. Jankoski, as you sit here today, do you know what type of written materials, instructions, any type of warranties would have accompanied a vertical blind such as the one that is depicted in 3I?

A. A typical box would have an instructional sheet to show the person how to install it. It would have a warranty card application, and it might have a packaging slip on the outside to show what was in the box.

Q. Do you know what was the practice of Hunter Douglas in the mid '90s, assuming that's when this unit would have been manufactured, with respect to labeling of the products using warning labels?

MR. WILLIAMS: Again, if you know. He's not in the vertical blind division. I'm going to let you answer, but don't assume anything.

A. Minimally, we would have met the ANSI standard that was in place at the time.

Q. Do you know what that standard would have been?

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A. I don't recall it.

Q. All right. Based on the knowledge that you have of the industry in the window covering industry, where would be the most logical place to put warning labels on a vertical blind such as the one depicted on Exhibit 3I?

A. There would be a hang tag probably off of one of the cords.

Q. Now, Mr. Jankoski, do you know whether Hunter Douglas has any information to believe that the unit that you see, the vertical blind that you see on Exhibit 3I, was somehow modified or changed in any way from the time it left Hunter Douglas's control?

MR. WILLIAMS: Objection, lack of foundation. Go ahead.

A. I couldn't tell by the picture.

Q. We know from depositions that have been taken in this case that this unit, Exhibit 3I on Exhibit 3I, was purchased by Ms. Brenda Davis some time in October of 1995.

Assuming that information is correct, would the date of purchase give you any idea as to when that unit would have been manufactured?

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2 A. Our production time through our
3 fabricator network could be -- and, again, it
4 varies by geography, but it could probably take
5 two to three weeks to produce it and ship it.

6 The consumer goes into the store, orders
7 it from the retailer. The retailer turns around
8 and gives Hunter Douglas the order. The product
9 is produced. The day that it is shipped, it is
10 invoiced, and we have, you know, 10-,
11 14-working-day delivery cycles were usual plus the
12 shipping time.

13 Q. So is it fair to assume that in all
14 likelihood, again, assuming this product was
15 purchased in October of 1995, that the product
16 would have been manufactured or made some time
17 between June of 1995 and October of 1995?

18 A. That's a fair guess. Could you
19 repeat -- when was the purchase date?

20 Q. Yes, I'll be happy to.

21 The purchaser testified that she
22 believes she bought the blind some time in 1995,
23 October of 1995.

24 So, then, the question that I asked you
25 following that was: Given what you told me, that

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it would be anywhere from two to four weeks to
make this custom order --

MR. WILLIAMS: I think he said two to
three.

A. Okay. But if she purchased it in
October, then the timeline starts from the day she
purchased it, not going backwards but going
forwards.

Because if she made the purchase in
October, then we won't get the order until a few
days after the purchase. And we would produce it,
ship it. They would install it. So the
production time actually would take place after
the actual purchase, not before the purchase.

Q. I see your point.

A. I wasn't sure if you said purchase or
install.

Q. Well, I guess it's a combination of
both, because then Ms. Davis testified that they
would have installed the product some time around
October of 1995.

And the reason why we know that is
because we used as a point of reference the time
her daughter was pregnant, and they were expecting

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a granddaughter, and they figured that that would have been the time when they would have installed, October of 1995.

So if we use that information, however accurate it may be, installation in October of 1995, then it would have made sense that that unit would have been produced some time between June of 1995 and the time when it was installed?

A. No, that's not true.

MR. WILLIAMS: Hold on. I've got to object. You changed the verb from "purchased" to "installed."

I think it's safe to say that her testimony is not very clear. She wasn't that precise.

But, in any event, if you use the assumption that it was installed in October of 1995, given the two to three weeks lead time that he told you about, I think the June-to-October time frame that you're asking him about wouldn't be accurate. It misstates his testimony.

MR. JAUREGUI: All right. Let's take another crack at it. All right?

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Q. So if you assume that the purchaser of the blind installed the product, and, actually, the product was installed, according to the purchaser, by herself and her daughter -- let's assume that the product was installed some time in October of 1995.

So if it was installed in October of 1995, then we have to assume that the product was ordered some time before October of 1995. Fair?

MR. WILLIAMS: Or in early October 1995.

A. Very early October to the very end of October, that still would have taken place.

Q. Let's work with the month of October as being the installation time.

If you use that as a point of reference, is it then fair to assume given that it was a custom order that that product would have been manufactured some time between June of 1995 and October of 1995?

MR. WILLIAMS: Same objection.

A. The answer would be yes. It's a very wide range. It wouldn't need to go back to June.

Q. How far would you have to go back?

A. If they installed it at the end of

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2 October, it takes one week to ship it and install
3 it, two weeks to produce it, you're backed up
4 three to four weeks, and that would be the day in
5 which we would assumedly get the order from the
6 retailer.

7 Now, the retailer, who knows how long he
8 might have sat on that order? The consumer comes
9 in a retail store, "This is what I want," the man
10 takes the order. He could give it to
11 Hunter Douglas that day. He could give it to us
12 three days from now. He could give it to us next
13 month.

14 The man might owe us money, and he can't
15 produce -- we wouldn't produce the order because
16 he is on credit hold.

17 I mean, there's a lot of variables in
18 there. If everything was going, you know
19 according to no problems, a normal production
20 period, you'd back up pretty much maybe a month
21 from the moment it was produced -- I mean, to the
22 moment -- yes, from the moment it's produced to
23 the moment it's installed, but there's a lot of
24 other things that could have delayed that.

25 Q. Both Ms. Davis, in this case the

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purchaser of the product, and her daughter, Mindy Roberts, the beneficiary of the product in this case, both testified that they had no recollection of seeing any warning labels on this product.

In December of 2002, my clients, Mr. and Mrs. Padilla, purchased a home from Ms. Roberts, and they've also testified that after they purchased the house, the window blind was affixed in the place where you see it on those photographs.

They also testified that they didn't make any changes or modifications to the window blind, included any removals of any warnings or labels.

Now, does Hunter Douglas have any information indicating that at the time when this unit left Hunter Douglas's control, it had any warning labels about the danger of strangulation of young children by the cords?

MR. WILLIAMS: Objection, vague. Other than the practice he's already described to you of attaching a hang tag, are you asking if he has any other information beyond that?

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MR. JAUREGUI: Yes.

A. There could have been a brochure that would address safety as well put in the box. It's oftentimes in with a lot of other things, and, you know, hopefully it's visible enough to be seen.

But it could have been a brochure or some part of the installing instructions that have safety initiatives built into that. So there were a number of different versions of it.

Q. If you assume that there was some kind of warning label attached to it -- and we don't know that in this case; we don't know that one way or the other -- but if we would assume that there would have been some kind of warning label attached to this unit, it would have been what's known as a tag, as a tag warning label, I believe?

A. It could have been a tag. It could have been a brochure. It could have been something put in the box.

Q. And where are the tags normally attached on a unit such as this? What would they have been attached to, what part of the --

MR. WILLIAMS: Back in 1995?

MR. JAUREGUI: Yes.

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MR. WILLIAMS: If you know.

A. I don't know.

Q. Do you know whether consumers have a habit of removing tags that are attached to the cords because they do not look aesthetically pleasing? Is that a common concern in the industry?

A. I can't speak for individual initiatives. I know that roughly 80 to 85 percent of the products that Hunter Douglas produces are professionally installed by trained installers.

MR. JAUREGUI: Sir, sorry to interrupt you. I have to take a break right now. I'm expecting a call.

MR. WILLIAMS: Okay. Let's take a break.

(A recess was taken from 4:07 p.m. to 4:19 p.m.)

BY MR. JAUREGUI:

Q. Mr. Jankoski, we're back on the record. Before we broke, we were talking about the tag warning labels. At least I believe I understood you -- if I understood you correctly, that a tag label or warning label would have been attached to

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one of the cords of the vertical blind if, indeed, one was attached.

A. That's one option. Again, we had other means to communicate. I'm aware of brochures that mentioned the issue of safety that were in the box as well. Some fabricators used hang tags, some fabricators used brochures. I'm not sure that there was one method in which it was universally applied.

Q. And then I asked you the question whether or not Hunter Douglas had any knowledge of consumers' propensity to remove the tag labels for aesthetic reasons, and that's where we left off.

A. I've been in a lot of homes lately, and I haven't seen many tags still hanging from window blinds in any home that I'm in, so eventually they wind up by human nature probably being removed.

I mean, I don't have any scientific proof of that, but it just -- after you install it and read it, I'm assuming that they would remove it.

Q. All right. And other than your own personal experience in the industry or, in particular, Hunter Douglas, is that a known

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occurrence, that after a while consumers are going to have the inclination to remove the tags for whatever reason, including for aesthetic reasons?

MR. WILLIAMS: He just answered that.

Asked and answered. Go ahead.

A. I can't speak for the industry. I'm only speaking for myself.

Q. All right. Let me take another stab at this. And I apologize if we are going over questions that I already asked you, but I wanted to make sure that I understand what your answer is.

At the time or some time in the mid '90s, did Hunter Douglas have any standards that it followed to determine the pull force of the cords that it used in its window blind products?

A. I'm not sure I fully understand what you mean by "pull force."

Q. The breakaway point in which you apply a force to the string and then it breaks apart.

A. Before the string itself breaks?

Q. Yes. What do you call that in the industry? What is the proper term?

A. Oh, I understand what you mean now. All

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of the components that we provide our fabricators have been retested for wear and performance under very, you know, extreme conditions.

A window covering, when you really think about it, is against a piece of plastic. It could heat up to 300 degrees or get as cold as zero. And the materials that we use, the plastics, the components of it, the fabric, the acrylic, the cords, are all tested against long-term wear, and that's why we're able to provide a limited lifetime warranty on our products and enjoy a reputation for high quality.

Q. Let me take it from a different approach.

The breakaway force that is applied to window blind cords such as the one that is illustrated on Exhibit 3I, was there some kind of analysis testing that was done to determine if, for example, the pull force should be 10 pounds, you know, before the window cord breaks? Should it be 20 pounds? 30 pounds? That's what I'm trying to get at.

MR. WILLIAMS: Objection. Just so I myself understand, you're talking about a

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continuous cord with no tassel or anything like that?

MR. JAUREGUI: Just like the cords that you have in front of you on Exhibit 3I.

MR. WILLIAMS: Go ahead.

A. In this particular product design, there is not a lot of stress being placed on those cords because you just -- you pull them down, and they rotate through. So it's not as if the entire weight of the product is being borne by that product.

Conversely, if you think of a horizontal blind that might look like the one on the window here, as you pull the cord down, the entire weight of the entire product is being borne by that cord.

In the case of the vertical, that's not really how it works, but there is extensive testing that goes into all components before we release them to the field.

Q. Do you know whether if you had a nylon cord or a metal beaded cord with a breakaway pull force of 10 pounds, would the strength of either the nylon cord or the metal beaded chain been sufficient to operate the vertical blind?

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MR. WILLIAMS: Objection, vague. I also believe it's getting into the engineering principles that are outside of this witness's bailiwick, and I'll caution him not to speculate on that at all.

A. I wouldn't know if 10 pounds is the right number, no.

Q. Do you know whether prior to 1995 Hunter Douglas had any concerns about the constitution of the nylon cords in the metal beaded chains in that, when a child got caught up in there, could become strangled if the materials were to the point that even a child of 30 pounds -- applying a 30-pound pressure, the cords would not breakaway?

MR. WILLIAMS: Could I have that read back, please. I did not follow that.

(The Record was Read.)

MR. WILLIAMS: Objection, vague, ambiguous and unintelligible.

BY MR. JAUREGUI:

Q. Let me tell you what I'm trying to get to, the point, okay? In this case, the child, Max Padilla, was three years old, weighed

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52 pounds, and when he was found by his mother in the room, he was suspended from one of the cords.

Now, given that information that you have, the question is if the window cords for the vertical blind at issue in this case -- if they had used cords or a beaded chain that would break away once 10-pound pressure is applied to it, then this incident would have never occurred.

MR. WILLIAMS: Wait. There's no question there. That was a sentence.

Q. So do you know given that -- so the question to you is, whether Hunter Douglas had information in 1995 about concerns that the composition of the nylon cords and the metal beaded chain were too strong, and that they could increase the risk of strangulation when children became entangled in the cords?

MR. WILLIAMS: I object to the preamble as an incomplete hypothetical based on assumptions that are demonstratively false and outside of this witness's bailiwick.

Do you know whether Hunter Douglas had concerns before 1995 about the chain or cord material being too strong?

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THE WITNESS: Personally, I would not.

It would be an issue that the engineers would be discussing, and I wouldn't be privy to that.

Q. Is Hunter Douglas still manufacturing vertical blinds such as the one that is depicted in Exhibit 3I?

A. We make vertical blinds that are probably similar. I don't know if they match up directly with that product. We've made changes and improvements on it over the years.

Q. Were there any changes made to the length of the cords?

A. Again, the length of the cord is a consumer option that we, to this day, acknowledge the fact that we are a custom-made product.

Q. I have a stack of documents in front of you, Mr. Jankoski. They are labeled in some type of chronological order, so let's see if we can follow it through, then.

I am going to ask you to look at Bates stamp document M-120.

MR. WILLIAMS: M-120 is mid-document.

Is that correct?

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MR. JAUREGUI: That's right. The document starts on page 1 of 3, and it's an analysis of fatal incidents associated with window covering cords between 1996 and 2002 offered by the Consumer Products Safety Commission on November 2004.

If you need to reference any other parts of the document to identify it, please go ahead and do that.

MR. WILLIAMS: I'm sorry, did you say it's page 3?

MR. JAUREGUI: One of three.

MR. WILLIAMS: One of three, sorry.

Q. Referring your attention to page 120, Bates stamp M-120, it's page 18 of that document -- are you there with me --

A. Yes, sir.

Q. -- there are two bullet points on that document. Is that correct?

A. Yes.

Q. And it states there -- well, why don't you go ahead and read the first sentence there so that we can put things into perspective here.

MR. WILLIAMS: So you want him not to

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review the document to see if he recalls
this?

MR. JAUREGUI: I want him to do that.

Q. Have you done that? You can take as
much time as you want.

MR. WILLIAMS: So the question to you
now, I believe, is: Do you ever recall
seeing this document before?

MR. JAUREGUI: It starts on page 1 of 3.

A. I recall seeing it way back when.

Q. And the question that I have -- I'm
referring your attention at M-120.

A. Yes, sir.

Q. All right. The second bullet there.

I should note that if you look at
page 119, it's part of the recommendations there
on paragraph 9. Do you see that there?

A. Yes.

Q. And right below that there, it says,
"CPSC believes that the Window Covering
Manufacturers Association should consider revising
current requirements in the voluntarily standard
to remove any potential for these foreseeable
circumstances to occur." Do you see that there?

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A. Yes, sir.

Q. That says specifically, and it has four bullet points. Do you see that?

A. Yes.

Q. Now, I'm interested in the bullet point number 3, the second sentence there.

A. Uh-huh.

Q. It says, "A requirement that eliminates the operating cord or limits the length of the exposed cord to 7.25 inches would prevent the possibility of cord manipulation into hazardous loop and products that use a cord lift control system." Do you see that there?

A. Yes, sir.

Q. All right. The commissioner here is recommending that the cords should be limited to a length or exposed length of seven and a quarter inches, correct?

MR. WILLIAMS: Well, the documents speak for itself, and he didn't author it, so I'm not going to have him tell you what the commission said beyond what you can read, which doesn't add anything.

Q. So that document states they're

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recommending -- part of their recommendations in this analysis, a fatal accident, dated November 4, 2004, that they are recommending for the industry to start using cord lengths of seven and a quarter inch for certain blinds. Is that correct?

MR. WILLIAMS: Same objection, the document speaks for itself. But, Arturo, to be fair, I'm going to direct you back to the beginning under recommendations that you read, that starts out by saying, "The CPSC staff believes that WCMA should consider revising current requirements." And then it lists four things worth considering. And I don't think it's fair to characterize that, even though it's not a document, as a recommendation.

MR. JAUREGUI: All right.

Q. With that modification there, I'm trying to get to another question, okay. That's not my question yet. I'm just pointing out to you that in November 2004, the Consumer Products Safety Commission was making a recommendation that on certain blinds, the length of the cord should be limited to seven and one quarter of an inch.

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Okay? You're with me so far?

MR. WILLIAMS: No, no, you're not asking a question, but you're saying the commission, rather, is recommending seven and a quarter inch cords. I'm taking issue with your characterization and saying I don't think that's fair.

MR. CARROLL: This is not an objection.

Arturo, you may want to ask him, because this is not the kind of cord they're talking about, when it says "control lift system," that's what it means. They're not talking about a continuous lift cord. Why don't you ask him that, because this recommendation didn't relate to the particular blind.

MR. JAUREGUI: Both of you have not let me go to my next question. I will move on to the next question.

MR. WILLIAMS: Please ask him a question.

MR. JAUREGUI: All right.

Q. At some point the commission was suggesting or recommending that the industry start using cord lengths for certain blinds, and they

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were limiting the length of the cords to seven and a quarter of an inch. Okay? That's all. That's just a statement from the document. Correct?

MR. WILLIAMS: That's what it says?

MR. JAUREGUI: Yes.

MR. WILLIAMS: I object that you're misreading the document.

You can answer that question. Do you understand the question?

MR. JAUREGUI: There's no question right now.

MR. WILLIAMS: Well, there was. If you're retracting it, I'm happy.

Q. There's a statement there that at some point the commission was recommending that for certain blinds, the industry should consider using -- it was a recommendation -- cord lengths or exposed cords to seven and one quarter of an inch. Okay? If we can just get there in one piece -- okay.

Now, the question that I have to you is, do you know where that seven and one quarter of an inch recommendation comes from?

MR. WILLIAMS: I object to the

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characterization as a recommendation. Go ahead.

A. I believe it is referencing the neck circumference of a particular aged child. It actually states so in the footnote on page 18.

Q. Do you know why the commission was recommending, according to the paragraph 9 there, that window covering manufacturers should consider -- do you know why they were making that recommendation to the Window Covering Manufacturing Association?

MR. WILLIAMS: Objection. It calls for speculation.

A. I don't know why they would do it, but I believe the industry has given it some serious consideration, and there is the reality of, would a 7 3/4 inch cord represent a hazardous loop, and the answer would be probably not.

Conversely, though, what is the practicality of having a window covering that has a 7 1/4 inch operating cord when most of the people in America would need a stepladder to get up to address the cord and maybe would introduce a whole set of other issues that could be equally as

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dangerous, it didn't seem to make...

This was a prescriptive suggestion. And as we opened it up, we're trying to come up with a product performance standard that says, this is what the product needs to do, and allow us as an association of manufacturers to address that in a way in which the answer could be reached, but not necessarily with one answer.

It doesn't seem to make a lot of practical sense, although in theory it makes -- you can understand why they might do that, but look at the window right here in this room, if this was only 7 inches high, we wouldn't be able to operate the product.

Q. So the suggestion or the recommendation as it is made here by the Window Covering --

MR. WILLIAMS: The Consumer Products Safety Commission.

Q. -- Consumer Product Safety Commission was designed to minimize the ability of a child to get his head caught up in there and become strangled?

MR. WILLIAMS: Objection. It calls for speculation and the document speaks for

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itself. I think you've answered the question.

A. According to the statement, it said that length of cord would prevent the possibility of cord manipulation. That was their statement.

Q. Before November 2004, did Hunter Douglas consider using continuous loop cords such as the one you see on Exhibit 3I of lengths not exceeding 7 1/4 inch?

A. Yes.

Q. And having considered the use of cords not to exceed 7 1/4 inch, did Hunter Douglas at some point start to use cords that were 7 1/4 inch in length for continuous loop cords?

MR. WILLIAMS: Did Hunter Douglas start to use that at some point?

MR. JAUREGUI: Yes.

A. Unless the consumer specifically asks for it, we would make it, if they wanted it. Since, again, everything we do is custom made, if the consumer asks for it, we would give it to them. Again, if they don't, we would default to something that would be different than 7 1/4 inch.

MR. WILLIAMS: Keep your voice up.

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Q. Does Hunter Douglas make any products, in particular, vertical blinds, with continuous loop cords with lengths of 7 1/4 inch?

MR. WILLIAMS: He just answered that.

Q. Or that's only the consumer reports side?

A. Yes, sir. If the consumer requests it, yes.

Q. Now, currently, there are other safer alternatives to window cords. Is that correct?

MR. WILLIAMS: Wait, vague and ambiguous. Safer than what?

MR. JAUREGUI: Safer than corded products.

MR. WILLIAMS: As a general proposition, go ahead, if you understand the question.

A. There are many, many products on the market today that severely reduce the risk of strangulation. Some have cords, some of them do not.

Q. There is such thing as cordless products now?

A. Yes, sir.

Q. And what is that, essentially?

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2 A. A shudder has no cords. A roller shade
3 with a string roller system that you just pull
4 down has no cords.

5 We have pleated shades and honeycomb
6 shades that have no exposed cords. They are built
7 inside of the product, and you can't get at them,
8 but you're allowed to just take the product
9 yourself and manipulate it down to a length and
10 leave it so there are no exposed cords.

11 Again, the definition of cords, there
12 may be cords, but they are not accessible cords.
13 And there's a significant difference between --
14 you know, we say cordless products, but there is,
15 in fact, a cord inside there somewhere to make it
16 work, but it's not accessible to the consumer so
17 it's referenced as a cordless product.

18 We have products that are motorized that
19 require no corded manipulation, and they could be
20 either motorized by a battery-operated system,
21 they could be motorized by a hardwire system where
22 an electrician can come in, or they could be
23 operated where you just plug them in the wall like
24 an appliance.

25 We have products that have retractable

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2 cords so that no matter how long the product --
3 when you pull the cord down to lift the product
4 up, our system now has a retractable device so
5 that the cord retracts back into the headrail and
6 stays at a fixed height regardless of what
7 position the product is in. So we have quite a
8 few products on the market.

9 Q. What's a window covering pull safety
10 device? Are you familiar with those?

11 MR. WILLIAMS: A window covering pull
12 safety --

13 MR. JAUREGUI: Pull safety device, yes.

14 A. Pull safety?

15 Q. Yes.

16 A. I don't know.

17 Q. Can you take a look at document
18 Hunter Douglas 1042 to 1045. They will be later
19 on towards the end of that package somewhere in
20 there, the beginning of one of those, HD1044.

21 MR. WILLIAMS: That is our production.

22 Not 1042, the first document inside that
23 rubber band.

24 A. Okay.

25 Q. Have you seen this document before,

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Mr. Jankoski?

A. I don't recall, but I must have seen it since it is a document that comes out of our PR agency, Lou Hammond, and I reviewed most of those.

Q. Now, I am looking for a date on this document. Do you see a date somewhere?

A. April 24, 2002.

Q. Referencing your attention to the first page of that document, the basics, can you read that first sentence, please?

A. "An important part of raising children is careful supervision of activities" --

Q. I'm sorry, the basics, the bottom paragraph there.

MR. WILLIAMS: Under the heading basics?

MR. JAUREGUI: Yes, basics.

A. "Keep cribs, furniture, and other objects that can be climbed on away from windows and use window locks to lock open sash windows to a safe height preventing them from being opened any further."

Q. What are these recommendations aimed at doing?

A. Educating the adult in a home of the

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many things that may or may not be obvious to them with regard to child safety.

Q. In this document, it states on the following page, according to the U.S. Consumer Product Safety Commission and the Window Covering Safety Council, an estimated 194 children have died as a result of accidental strangulation from window coverings. Do you see that there?

A. Yes, sir.

Q. Is there some common trait or mechanism of injury by which children are being exposed to these strangulation hazards?

MR. WILLIAMS: Objection, vague and ambiguous.

Q. By that I mean, there are two things that you are recommending, that they keep cribs and furniture and other products that can be climbed on. Okay?

A. Uh-huh.

MR. WILLIAMS: Yes or no. You have to avoid the things with M's and H's in them.

A. Yes.

Q. Now, is it because cribs, when they are kept close to window blinds, young children may

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2 have a tendency to play with the cords and become
3 entangled with them? Is that one of the reasons?

4 A. That's certainly one of the reasons,
5 yes.

6 Q. And it also suggests that furniture and
7 other objects that can be climbed on, to keep them
8 away from windows?

9 A. That's the recommendation here.

10 Q. All right. So at least as of
11 October 24, 2002, Hunter Douglas was aware of the
12 propensity of young children to climb onto
13 furniture and become untangled in window
14 coverings. Is that a fair statement?

15 MR. WILLIAMS: April, not October 24,
16 2002. For the record, you said October. I
17 think you meant April.

18 MR. JAUREGUI: I thought I said April,
19 but April of 2002.

20 A. Yes.

21 Q. And is this something that
22 Hunter Douglas had known for some time prior to
23 2002?

24 MR. WILLIAMS: Was what something?

25 MR. JAUREGUI: The fact that small

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children have a propensity to climb onto
furniture and other items and become
entangled on cords, on window coverings.

MR. WILLIAMS: There's a compound --

A. I think anyone who has a child will
realize that they're pretty inquisitive, and they
get into places they might not be designed for.
And this is really a good dose of common sense.

And as you can see from the document,
we're also addressing a menu of other things. We
are trying to do a public service, again, trying
to create awareness.

You had mentioned earlier how many other
windows that are out there that are, you know,
potentially dangers. This was one of the attempts
that we have made and continue to make to bring
the issue to the front of the minds of the
consumers.

Unfortunately, you know, the reality is
if you see a bottle of bleach on the table, you
take it away before your child comes in. If you
see knives or an opened, you know, window, you
take care of that. But sometimes when you see a
nice looking window covering, it doesn't translate

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to potential danger.

And if you have the wrong product that you purchased or a product that is an older one that is out of spec, then most consumers don't associate the danger. And this is an attempt to bring more awareness to that matter.

Q. And the propensity of children, young children, to climb onto furniture and get caught up in the window cords, that is something that is certainly foreseeable; if the window blinds are in a room and a child climbs onto furniture in an effort to try to look out the window, it is foreseeable that the child might be tangled up in the cords?

MR. WILLIAMS: Hold on. I'm going to object. It's compound. You talked about the propensity of children to climb on furniture, but then you go on to say and to become tangled in window cords.

I think the propensity or likelihood, whatever you want to call it, of those two is very, very different, and I object that the compound question doesn't separate them.

Go ahead, if you understand it.

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A. I wouldn't say foreseeable. It's

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possible. I mean, foreseeable is a little

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stronger in terms of its likely to happen. We are

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trying to reduce the likelihood of that happening.

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Q. In your mind what is the difference

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between something being possible from occurring

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and something being foreseeable?

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A. In my mind, foreseeable is going to be;

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will, in fact, actually happen down the road; and

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potential may or may not happen.

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Q. And the U.S. Consumer Product Safety

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Commission has put out similar information out

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there, right, in terms of how is -- the most

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common likelihood that children are getting

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tangled up in window blind cords, one of them

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being children climbing after toys or other

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furniture and becoming entangled in window blinds.

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I mean, the industry has known that for a number

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of years, correct?

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MR. WILLIAMS: What's the question?

22

That the CPSC has put information like that

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out, or that the industry has known that as a

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whole?

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MR. JAUREGUI: Both.

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MR. WILLIAMS: Objection, compound and
also asks for speculation.

Listen to the question. If you can't
answer it, tell him.

A. I'm not sure what the question was.

Q. That's fine.

The Consumer Products Safety Commission
publishes data about strangulations of children
from window blind cords, correct?

A. Periodically, they do that.

Q. And Hunter Douglas is made aware of
those publications, right? I mean, you get that
information from the Consumer Product Safety
Commission as a member of the industry?

A. We don't get it directly, sir. We get
it through the association.

Q. Through the Window Covering Safety
Council?

A. Through the Window Covering
Manufacturing Association.

Q. As you sit here today, what are the most
common causes that children die from
strangulations or the most common methods when
young children die from strangulations from window

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blind cords?

MR. WILLIAMS: Objection, vague.

A. Is there more than one method of strangling?

Q. I'm just using your document that you have in front of you here. You're recommending that cribs should be kept away, furniture and other objects that can be climbed on should be kept away from windows, so why is Hunter Douglas making these recommendations?

MR. WILLIAMS: Asked and answered.

A. Just simply to create consumer awareness that if, in fact, they have a toddler, and they have a product with excessive cords, then they need to understand what's happening in their house.

Q. I want you to take a look at page 1043 there. It says somewhere there in the second full paragraph: "We join these esteemed organizations in educating consumers about the dangers of window covering cords," said Joe Jankoski, a member of the Window Covering Safety Council and corporate vice-president of merchandising for Hunter Douglas. All right?

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Now, can you read the next statement,
please?

A. "Hunter Douglas was the first
manufacturer to respond with a solution to the
problem and has consistently taken a leadership
position within the industry with regard to the
potential hazards of window covering cords."

Q. Can you tell me how is it that
Hunter Douglas was the first to respond with a
solution to the problem? What was the solution?

A. We were addressing in this particular
time frame the looped cord that I had described to
you in horizontal products, and we developed a
breakthrough tassel.

Instead of having a cone-shaped tassel,
we created a tassel that had two parts to it so
that it would break away almost to your prior
description of releasing if there was pressure
placed in the loop. That breakaway tassel then
was the first of its kind to be used in the
industry.

Q. I thought that part of the retrofit
campaign of '95-'96, one of the recommendations
was that for continuous loop cords, they were

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recommending for consumers to cut the cord and
then attach like the bell at the end of each cord?

A. That's correct.

Q. Is that correct?

A. Yes, sir.

Q. That was part of the retrofit campaign?

A. For the horizontal, yes. For the
vertical product, there was a different...

Q. For the vertical product, it was the
tension that we spoke about?

A. Yes, sir.

Q. And the breakthrough safety tassel,
that's what you were describing to me earlier?

A. What I described earlier was the
problem, and how you have a tassel under a cord
with a knot on it that has a loop that's very,
very firm.

This breakaway tassel, instead of having
one continuous loop, we cut it, make it two
pieces, but we join them together with one tassel
that looks like the old one, and consumers can
identify and grab one cord and pull it down.

But in any case where there was an
insertion of a head with any pressure, it pops

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away and turns into two separate cords.

The convenience here is that, not only did it deliver a safety element to the product, but it made it easier for the consumer to operate the product because she was able to grab one cord and pull the product up and down versus having to grab two cords.

And you almost never grab the two cords at the same space, so the blind would always go up crooked. And it was an inferior way, if you will, of operating the product.

So this was a solution that we thought had merit from a safety position and from a practical operational position.

Q. All right. And on that same page, 1043, HD1043, it says, "In addition, Hunter Douglas introduced a PermAssure Safety Wand, a fiberglass wand that is a single control replacing both the cord and the chain and the vertical blinds that limit access children have to it for enhanced safety."

A. That's correct.

Q. Now, my question to you, sir, is, this is an improvement that was made for vertical

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blinds?

A. Yes, sir.

Q. Do you know when the safety wand became available?

A. I don't recall.

Q. Was that a technology that was developed by Hunter Douglas?

A. I don't recall who developed it.

Q. Do you know whether the safety wand was a technology available some time in 1995-1996?

A. I believe it was.

Q. If that technology was available in the mid '90s, is there a reason why it was not used on the vertical blinds such as the one that is shown on Exhibit 3I?

MR. WILLIAMS: A reason other than consumer specs? I mean, objection. It's vague because he's told you that.

A. It was used. It was used.

Q. It was used?

A. Yes.

Q. And is there a reason why it wasn't used in this particular vertical blind 3I, Exhibit 3I?

A. The only reason would be the consumer

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chose not to buy it.

Q. What is the function of the safety wand?

A. The safety wand does -- it does two of the operating systems in one.

To operate a vertical blind, the vanes traverse left to right or part from middle, and the louvers themselves rotate to provide you with different angles for the sun and privacy. The wand takes the place of both cords.

In Exhibit 3I, the chain operates the tilt, and the cord operates the traverse. In this case, the wand replaces both of those cords, and if you want to traverse the vanes, you take the wand and you spin it --

MR. WILLIAMS: Not traverse.

THE WITNESS: I'm sorry.

A. If you want to rotate the louvers, you take the wand and you spin it, and the louvers will rotate. And if you want to traverse, you just hold the wand and you walk it across the face of the product and bring it to the other side manually.

Q. So the use of the wand essentially eliminates the use of cords on a vertical blind

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such as the one on Exhibit 3I?

A. That's correct.

Q. And by using a wand on a vertical blind such as the one on Exhibit 3I, you eliminate if not minimize the danger of strangulation by the cords?

A. There are no cords, so by default, yes.

Q. So you eliminate the danger of strangulation because there are no cords. Correct?

A. Yes, sir.

Q. So your testimony here, sir, today is that some time in 1995 or when this product would have been sold and manufactured, that the cords were specifically provided at the request of the consumer?

A. Yes.

Q. And is it your testimony here, and you would tell that to the jury here today that, knowing that the household where the blind was going to be installed had young children, that if they had been advised of the dangers of window blind cords to young children, that notwithstanding that information, they would have

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still chosen the corded product?

MR. WILLIAMS: Wait. Objection. I

believe that calls for speculation. Are you asking him what the Roberts/Davises would have done?

A. Yes.

Q. The question again is that if the purchaser of the blind had been fully advised of the dangers posed by window blind cords, that notwithstanding those warnings, that they would have still chosen to go with that option rather than choosing the safer option of a vertical window blind equipped with a wand to operate the blind?

MR. WILLIAMS: Objection. It calls for speculation. I don't understand the question.

A. We hope with the right information they're going to make the right decision for themselves. We have a very aggressive training program for our retailers to let them know what the options are so they can communicate that to the consumers. And I don't know what happened during that particular transaction.

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Q. From a cost-analysis perspective, what's more expensive, to fit a vertical blind with the chain and the nylon cord such as the one that you have on Exhibit 3I, or to fit it with a wand?

A. I don't know.

Q. If you look at the following page on HD1044 on top with the paragraph, it talks about a technology here. Let me just read that so I'm not making anything up.

"In 1996, Hunter Douglas had developed the first safety device specifically designed for window covering with continuous cord loop systems such as the Silhouette, Nantucket, and the Vignette window shadings, the cord tensioner."

Does that technology include the vertical blinds?

A. Yes.

Q. Both the tensioner, that would cover both types of windows?

A. Yes.

MR. WILLIAMS: I'm sorry, the cord tensioner referenced here?

MR. JAUREGUI: Yes.

Q. It says at the end of that paragraph

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that the cord tensioner is standard on all
Hunter Douglas window coverings with loop systems.
Do you know when that became the standard?

A. I don't.

Q. Sir, I want you to take a look at
page 1240, HD1240. Have you seen this document
before?

A. No, sir.

Q. All right. Do you want to take a minute
to review it?

MR. WILLIAMS: Did you say no?

THE WITNESS: I did not. I've never
seen it.

Q. All right. Have you had an opportunity
to review it?

A. Yes, I did.

Q. All right.

My first question to you is on the
second full paragraph there. I was asking you
questions earlier about that, and I just couldn't
find the information then.

Can you read that first paragraph,
please? The second paragraph there?

MR. WILLIAMS: Hold on. Arturo, even

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though he's said he's never seen this before,
and this can't refresh his recollection, you
want to ask him some questions about it
anyway?

MR. JAUREGUI: Yes.

A. "Hunter Douglas, the nation's leading
manufacturer of window covering products, takes
pride in the fact it has been at the forefront of
efforts to reduce the dangers posed by window
cords to small children.

"'Hunter Douglas has consistently taken
a leadership role within the window covering
industry with regard to the potential hazards of
the window covering cords,' says Kelly, who is the
vice-president of sales for Hunter Douglas."

Q. The first question to you is regarding
here. It states that Hunter Douglas, at least as
of 1997, was the nation's leading manufacturer of
window covering products. Is that a correct
statement?

MR. WILLIAMS: Objection. Vague as to
what's meant by "leading manufacturer." Go
ahead.

A. I think we like to take license

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sometimes and say that we are the leaders. We believe we are based on a number of things, but leading is not just about sales volume. It's about innovation. It's about supply chains, and, you know, that's our opinion.

Q. That's fine. And I don't want to prolong this line of questioning, but is that an accurate statement?

A. No, we believe we're the leader.

Q. Okay.

Paragraph number 4. It states, "In 1995, Hunter Douglas created the PermAssure (TM) Safety Wand for vertical blinds which replaces the cord and chain and can easily be kept out of a child's reach."

To your knowledge, do you know when in 1995 Hunter Douglas started to use the wands on its products, on vertical blinds?

A. I think you're taking this statement literally. We didn't replace it, per se. We added it to the line. This is descriptive copy to let people who are reading this understand what it does. The product was added to the mix. It wasn't replacing the existing system.

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MR. WILLIAMS: I don't think his question asked you that. I think it was just when in 1995 did the PermAssure Wand come into...

Q. If you know.

A. Oh, I don't know.

Q. All right.

A. Sorry.

MR. WILLIAMS: That's okay.

MR. JAUREGUI: Let's take a quick break.

(Recess taken from 5:13 p.m. to 5:19 p.m.)

BY MR. JAUREGUI:

Q. Mr. Jankoski, please take a look at document M-130, which should be towards the beginning of the documents there on the left side. I am going to ask you if you have seen that document before.

A. I don't recall.

Q. Do you want to take a look at it and see if it refreshes your memory? Does that refresh any memories?

A. Vaguely.

Q. All right. Let's try document Bates

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1 stamped M-130 to 131. It appears to be minutes of
2 a meeting. Do you agree with that?

3
4 A. That's what it looks like.

5 Q. Minutes of a meeting held by the U.S.
6 Consumer Product Safety Commission, and the
7 subject of that meeting is the Window Covering
8 Manufacturer Association Technical Meeting on
9 Window Covering Cords.

10 A. Yes, sir.

11 Q. And that was held on January 27, 2005?

12 MR. WILLIAMS: Are you asking if he has
13 got a recollection of the meeting, or are you
14 just asking him to agree that you're reading
15 this correctly?

16 MR. JAUREGUI: Yes.

17 Q. Do you agree? It is a document for a
18 meeting that was held on January 27, 2005. Is
19 that correct?

20 A. That's what the document says.

21 Q. And you were present at that meeting.
22 Is that correct?

23 A. That's what the document says.

24 MR. WILLIAMS: Okay. This is an
25 important -- you know, I mean, it's not a

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technical distinction. You're reading something. You've attended a lot of meetings.

You may assume somebody wasn't making stuff up, but the question to you is, do you have a recollection of attending a meeting on this subject at which these things were discussed on that date?

THE WITNESS: Again, vaguely. I've been through many technical meetings over the years. I don't remember this specific one.

MR. WILLIAMS: So you don't remember this specific one?

THE WITNESS: I remember being out in Los Angeles having a technical meeting. That's about where I'm drawing the line.

Q. Now, I take it that in your position as representative of Hunter Douglas, you have attended many meetings such as the one that you have in front of you sponsored by the U.S. Consumer Product Safety Commission dealing with technical issues on window covering cords. Is that a fair statement?

A. That's a fair statement.

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Q. And this is one of the meetings?
According to the minutes, you were present at that meeting?

A. Correct.

MR. WILLIAMS: According to the minutes, the document speaks for itself. I don't want to keep making that objection. I want you to get your questions out.

MR. JAUREGUI: He doesn't remember much, but I am trying to get there.

MR. WILLIAMS: But you can't refresh a witness's recollection with a document he hasn't seen before.

MR. JAUREGUI: All right. We're going to move on, otherwise we're going to be here too long.

Q. Now, there were a series of incidents, 19 fatal window covering cord incidents that were discussed at that meeting from the document itself. That's what it says, right?

A. Yes.

Q. And it identifies three main hazards and areas associated with cords involved. Is that correct?

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MR. WILLIAMS: Is that what it says?

MR. JAUREGUI: Yes.

Q. That's what the document says?

MR. WILLIAMS: Can I have a running objection that the document speaks for itself?

MR. JAUREGUI: I'll take it just to move on.

A. That document highlights three main hazard scenarios.

Q. All right. One of those scenarios under number 1 is continuous cord or beat loop that does not have a tensioner. Correct?

A. Yes, sir.

Q. All right.

Number 2, inner cords; and 3, loops formed by manipulation of the cord, correct? Those are the three scenarios that are discussed there?

A. That's correct.

Q. Now, the continuous cord or beat loop, that does not have a tensioner. Do you know what specific type of window blind product that was referring to, and would that have included

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vertical blinds such as the one that we have at issue here?

A. It could very well have included vertical blinds.

Q. All right.

Now, the third paragraph contains a statement that you made at that meeting, so why don't you go ahead and read that statement, and then I'll ask you a question.

A. "Joe Jankoski and Caroline Paul emphasized that voluntary standard action will effect future products but will not effect the millions of products that are currently in consumer use.

"It is essential that efforts to increase consumer awareness regarding the hazards and the availability of retrofits be continued."

Q. Having read that statement, does that accurately quote what you said at that meeting?

A. Again, my recollection of the meeting is such that I probably did say that because this is -- forget about a meeting, this is a personal belief that I have. And I would say it in every meeting, that we have a two-pronged issue in this

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2 industry: One is new product production; and the
3 other is the existing inventory of window
4 coverings that are in the marketplace today that
5 need to be addressed through awareness.

6 So I've always had the position, and
7 sometimes I speak louder than maybe people want me
8 to, but the point is I'm all for and we're very
9 much participatory in the new product standards,
10 but at the same time we need more awareness
11 efforts being placed or as much as we can.

12 I don't know if more is enough, but a
13 maximum amount of awareness in terms of the
14 activity that goes on to make people aware of
15 what's happening with the blinds they have, yes.

16 Q. Fair enough.

17 When you made that statement on
18 January 27, 2005, and you indicated that
19 voluntarily standard action would not effect
20 future products --

21 MR. JAUREGUI: Strike that.

22 Q. -- that voluntarily standard action will
23 effect future products but will not effect the
24 millions of products that are currently in
25 consumer use, can you qualify in any way the word

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"millions," you know, what you had in mind? Was it 20 million? 30 million? 80 million?

A. You know, I guess you can come at it a lot of different ways, whether or not mine is the right way or not, but if there are -- I mean, you take a very basic concept of 100 million households in the United States. How many windows does a household have? Do the math, and that's probably coming up short.

You know, that's not really taking into consideration the types of homes people have, how many homes they do have, but there is a lot of them.

Q. Let me throw this number at you. I read somewhere in one of these documents that in 2000, the Consumer Products Safety Commission believed that approximately 80 million window covering units were being sold every year. Does that number sound accurate or close to the neighborhood?

A. I wouldn't quarrel with that.

Q. All right. And so I take it from this statement, the voluntarily standards that the industry was adopting, those were forward in the

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future. It would not effect the products that were already in consumers' homes?

A. No, that's why the Window Covering Safety Council was established to do.

Q. All right. That's the second part of the question, then.

The only tool, then, that the window covering industry has to reach consumers with potentially dangerous products is through public relations outreach to the public, trying to educate the public about the dangers of window blind cords?

A. Through the Window Covering Safety Council, and that's one method. The other method would be the individual activity that every single company initiates on their company.

You know, we're members of an association. However, the activities that we have -- and I brought some of these documents here with Hunter Douglas that someone had uncovered for me, but it shows you what we're doing without anything to do with the association.

So there's multiple pronged efforts being placed. It's Hunter Douglas plus it's all

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of the other members of the industry -- are doing things on their own.

Q. Let's use this particular case as an example. The purchaser, Ms. Davis, said that she never received any information about the dangers of window blind cords to young children.

Her daughter, Mindy Roberts, the owner of the home where the vertical blind was installed, also testified that she never received any information from the Window Covering Manufacturing Association, the Window Covering Safety Council. By the way, they didn't even know what those entities were, or Hunter Douglas.

The victims in this case, the Padillas, both Mr. and Mrs. Padilla, also testified that they never received any information from the Window Covering Safety Council, the Window Covering Manufacturers Association, or Hunter Douglas about the dangers of window blind cords to young children.

Now, given that the Padillas did not install the product, they purchased the home from someone else, they moved into their house, the window blind has become a fixture of their home,

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there were no warning labels of any type, how are they supposed to know how to protect their children from the dangers of window blind cords?

MR. WILLIAMS: Okay, this is not intended to be argumentative, but are you asking him how are they supposed to get information from some outside source other than common sense and things of that nature?

MR. JAUREGUI: Yes.

A. We have a fairly aggressive campaign. I only wish that they did get the message. I'm not sure that our effort and our campaign is guaranteeing 100 percent awareness, but we're doing a lot in the area of that.

I can rattle off some of the things that we're doing. It wasn't just one dimensional. There were web sites. There were events. We have created cartoons like Superbaby and put it on YouTube.

Actually, this past two years ago, we had it over at the Colts football game on the Jumbotron, which you wouldn't think about looking at child safety, but we were able to do that.

In the Hunter Douglas world, we had Lou

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Hammond here a minute ago. We have an ongoing campaign for PR releases of stories. I feel very bad that they didn't hear our message, but it wasn't for a lack of trying.

Q. The retrofit campaign of 1995-1996, did that have a point at which it ended?

A. No, sir. It still is available today.

As of this year, we're averaging 10,000 repair kits shipped to consumers each and every month, of which, I would say, roughly 15 to 20 percent of those repair kits are specifically for vertical blinds.

Q. What's the percentage? I'm sorry?

A. Roughly 15 to 20 percent.

Q. And where are these numbers from, the 10,000 requests for retrofit kits?

A. That comes out of the Window Covering Safety Council.

Q. Are these retrofit kits provided to the consumer free of charge or is there a cost?

A. They're free of charge. You can access them through a web site or through 800 toll-free numbers. And at the moment, the industry has got five straight repair kits depending on the product

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that you have. We've expand it to cover as many potential scenarios as possible.

Q. Do you know what the Hispanic population in the United States was in 2008?

A. No, sir.

Q. I know that you brought some materials. Let's just go through them quickly.

These are materials that we had not seen before, but it appears to be materials related to Hunter Douglas's efforts in publicizing window safety. Is that a fair summary?

A. Yes. We do that through our retailers. All of these tools are handed to our retailers so that they could use them on a local level.

And what we have done in our web site, we make these available for people who want to order them up or download them. That's the only direct contact we have with consumers, only through our web site.

Everything else is done through our dealers because they're the local representation for our brand. And they're selling our product. And they're installing the product. And they are giving the consumer advise of what to buy.

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2 Q. I'm sure I'll be getting copies of these
3 documents from your attorney at some point, but
4 the question to you is some of these are materials
5 do not have any dates. Do you know when these
6 materials would have been distributed to the
7 public?

8 A. Some of them do have dates, but a lot of
9 them do not, and unfortunately we didn't have --
10 we don't keep everything that we produce. We
11 don't have enough room in our buildings.

12 These happen to come from one of our
13 people who work off site not in our office. She
14 happened to be -- she discovered them this week
15 knowing that I was going to be here. I didn't
16 even see them until this week.

17 MR. WILLIAMS: This is a question for
18 Arturo's benefit. Do you believe that it's
19 likely that all of these dates from 2000 and
20 later, all of the ones do have dates?

21 THE WITNESS: I would say most of them
22 are from 2000 on, because anything before
23 that I wouldn't know who has copies.

24 Q. Can you tell me who is the person that
25 discovered these documents?

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A. Donna Lobosco.

Q. And who is she?

A. She is the manager of our advertising agency, the manager of our advertising.

Q. So as you sit here today, you do not know one way or the other whether any of those materials would have been distributed in the Chicago area any time prior to April 22, 2008?

A. Well, for example, this is a kit that came out in 2000 because it was linked into the elections.

MR. WILLIAMS: Joe, I'm sorry, for the record, when you say "this," you're holding up an envelope.

Q. Can you describe that, sir?

A. It's a retailer kit called "Hip Hip Hooray." It's vote for safety -- "vote safety first," I'm sorry, and it's a kit that contains materials for retailers to use in their stores to, again, promote window covering safety.

It has buttons. We have advertising mats that our dealers could use in their local newspapers and put their own names on it.

We have point of sale material that they

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can hang materials from product to alert consumers of that.

We have postcards that they can send old consumers that they had that they would like to update people to say, you know, what you might want to come in and look at some child-safe products. These are for existing customers.

We had big banners. We also had materials to alert consumers. And we did this in a case where there it was a election thing, so we made it look like a ballot, but, again, bringing attention to the products that have no cords so that they can make informed decisions.

This was just a very -- you know, an early kit. The kits today have to go out in a UPS box because they have much more material than this does.

By the way, every single October we sponsor a thing for our retail community called Window Covering Safety Month, and it's an attempt to bring super focus to this issue.

Currently, the one that we're running right now, Hunter Douglas has waived the surcharge for any kind of likewise product, we subsidize it

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totally to get more people aware to buy it, more sellers to sell it.

And that has been a very successful venture for us because we see -- although we don't recognize one month as being safety month, we do change dealer behavior during a month.

When they get used to doing something a certain way, we see that carrying over after the promotion is over, and they continue to sell the products that we like them to sell in the area of safety. So, again, a multiple initiatives going on every single month.

Q. I take it that Hunter Douglas dedicates a certain amount of money to spend on doing education outreach efforts to the public to advise the public about the dangers of window safety?

A. Yes, sir.

Q. Do you know how much Hunter Douglas would have set aside for outreach efforts to educate the public about the dangers of window blind cords?

MR. WILLIAMS: During what period?

MR. JAUREGUI: 2008.

A. I'd have to really look at that to split

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it out because we don't necessarily look at it that way.

There's two ways to achieve that goal. One is through advertising. We subsidize retailers. Every one of our retailers gets a co-op program so when they spent a dollar, we give them a dollar, it works together. We give them materials to use.

And now because it's 2008, we no longer give them pieces of paper. There's a whole advertising agency online that we run for them that they could actually download all sorts of materials, customize it with their name on it, download their picture.

If they don't like their logo, we even change the logo. They can create their own materials locally.

We also run national advertising that addresses safety. But the second wing of that, if you will, is our PR effort, which is very important because it's not an advertisement. It's a story that we place in newspapers, in magazines.

We referenced the Lou Hammond organization earlier. They're the company here in

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New York that specializes in that area for us.

And I can tell you that in the area of window blind safety and child safety, we're probably averaging about 30 million reaches to consumers on an annual basis with stories that we've placed in newspapers written by someone else. We write the stories. They take the credit for it.

We've been on radio. We have television spots that we run as public service advertisements. I've personally been on a few of the radio spots. I'm the child expert, and we talk about -- I'm interviewed with someone, and this goes to hundreds of syndicated radio programs around the country.

So between the paid advertising and the seated PR, we have quite an extensive reach per year.

Q. So do you know in terms of paid advertising how much money Hunter Douglas spends on any given year, like, for example, 2009?

A. It's a number we really don't want to publish, but it's -- you know, it's a proprietary number.

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Our retailer co-op alone, just leave it at that, you know, the money that we work in conjunction with a retailer is in excess of \$9 million, which means for every dollar we spend, they're spending a dollar, so there's -- you know, there's \$18 million worth of localized advertising alone. That's not with any kind of umbrella support that we provide on TV and magazines.

Q. Do you have a way to determine what regions of the country the specific amounts of money go to, certain regions; for example, the Midwest? The Chicago area?

A. On certain programs, yes; on certain initiatives, no. When we match a dealer's money, yes. I know exactly where that dealer's located, and I could actually pin it to a map.

When we're putting an ad in -- you know, if we run an ad on television that hits the Today Show, you know, it appears in all major metro areas. But, you know, unless I can get their ratings from way back when and ascertain how much coverage we might have had in 2008 -- but I don't have it off the top of my head.

Q. Is there a separate budget that

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Hunter Douglas uses to advertise or to reach the Spanish-speaking public in the U.S.?

A. No. It's built into our overall marketing program.

Q. The materials that you showed me today -- and we can identify them; at some point they'll get Bates stamped -- again, do you have any information one way or the other as to whether or not these materials would have been distributed in the Chicago area?

A. There's a good chance that if we have done some translations, which in this case there's one of our ads. This brochure itself has been totally translated to Spanish.

What we do is we will make it available to our dealers and say, we have a Spanish ad, we have a Spanish brochure, who wants it? And those people who are doing business in those markets always raise their hand and ask for it.

So we typically get a lot of coverage in the larger markets -- New York, Chicago, Los Angeles, San Antonio -- a lot of those places where there's a very heavy Spanish market. Again, we push it through the dealer so it appears on a

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local level.

Q. Mr. Jankoski, I've asked you this earlier, and I don't know if I got an answer to this question. I'll ask it again because this may become relevant at some point when and if this case goes to trial.

For the year 2000, what was the amount of revenue that was generated by Hunter Douglas from sales of blinds in the United States?

A. In the year 2000?

Q. 2009. I'm sorry.

A. 2009?

Q. Yes.

MR. WILLIAMS: Is that proprietary information?

You know, my objections to the discoverability of financial information, you know, having been made for the record, without waiving that objection, we can provide that information to you under the appropriate confidentiality stipulation and not make it part of this transcript, which I think will be easier.

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MR. JAUREGUI: That's fine. That's acceptable to me. I need to know as part of this litigation -- I don't need to publish it to the whole world, but I think it's a relevant issue for this litigation, and especially for the years 2008-2009.

MR. WILLIAMS: So I'm going to finish discussing that. I'll tell you, we didn't cover this off the record during any of our breaks. I'll finish discussing it, and if we agree that it's acceptable to provide it that way, we will.

MR. JAUREGUI: All right.

Q. Does Hunter Douglas have any way of tracking down its consumers?

A. Only if they opt into our world. We have a promotion that we run. We give them an opportunity to get rebates. So if they buy Product A, we say we will give you \$50 back. If you send in a rebate form, we get it. We know who you are. We write you a check. We send it to you. We know who you are.

The other way to do that would be to have someone who has filled out a warranty card

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and wants to document the fact that they purchased the product, and they go into our database as having a warranty card.

The third way in which we can pick those people up would be if they call us up to ask for help directly, and we will walk them through a solution and potentially send them free of charge some parts or some information that they're requesting.

Q. So if someone buys a Hunter Douglas product from one of your retailers, any retailer, you know, Target, Home Depot, any of these places that sell your products, does Hunter Douglas have any information from the consumer like an address, a telephone number, any data relating to the consumer?

A. Again, where they actually opt into something we have put out there and volunteer that information, yes. We don't do business with Target.

We don't have Hunter Douglas in the stores at Home Depot or Lowe's -- are these largest boxes that would have databases that we could possibly get access to.

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Our primary method of distribution is through a very small mom and pop retailer or a decorator who doesn't have database data that can be transferred around. They just don't have that.

Q. That's fine, but my question is any retailer, a consumer purchases a Hunter Douglas product, does Hunter Douglas know who that consumer is?

If Ms. Davis here purchased the window blind from "X" retailer, does Hunter Douglas get any information about the name of the purchaser, the telephone number, the address, any sort of that information?

A. On occasion, yes. It's not every consumer. And, again, they have to fill out the warranty card.

If they just purchase the product, go home, and they're happy, and we never hear from them again, I mean, we don't know who they are.

But if they purchase because it's a promotion, and there's a rebate attached to it, or they fill out a warrant card, or if something breaks, they call us up, send me a piece, we keep that on record, but it only is -- pretty much the

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data that we have on consumers is probably three years old at best. That's probably the most accurate stuff.

We used to do it the old fashioned way with paper, and it was not a way which could be sustained so we switched to computerization about three or four years ago.

Q. So if there is a danger that has been identified or a defect -- and I know you don't like that word -- with one of Hunter Douglas's products, that Hunter Douglas becomes aware of it and wants to take corrective action, how does Hunter Douglas notify the consumer if Hunter Douglas doesn't have any information from the purchaser?

MR. WILLIAMS: I'm objecting to the use of the term "defect" or "danger" as being vague. Go ahead.

A. We don't have a way to do that.

Q. Okay.

Sir, I want you to take a look at document 841. It looks like this somewhere there in the end. If you look at it, it should be towards the end of the package. This is M-841.

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All right. We're all there?

A. Yes, sir.

Q. Mr. Jankoski, this is a document that I believe was produced to us by the U.S. Consumer Product Safety Commission in response to a Freedom of Information request, and it's relating to a fatality involving -- no, let me rephrase that.

It relates to an incident involving a Hunter Douglas product. If you want to take a minute to go through it, please do that, because I do have some questions about it.

A. Okay.

(Document review.)

Q. In the interest of time, if you allow me to get you to the particular page so that we can move long here, on page number 4 it has product identification.

A. Yes, sir.

Q. All right. According to the description of the product, it says that the brand is Hunter Douglas. As per the complainant, the model names are Vertical, Silhouette, Duet, and Tahoe. The manufacturer is Hunter Douglas, One Duet Way, Broomfield, Colorado, 820, 9805. The blinds were

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manufactured for Hunter Douglas by Bytheway's,
2750 Redding Avenue, Sacramento, California.

Was Bytheway's one of the entities that
was producing window blinds at some point for
Hunter Douglas?

A. Yes, sir. They were one of the
independent fabricators that eventually we
purchased, and I don't recall what the date of
that purchase was.

Q. I want you to take a look in the same
document. Go to Bates stamp M-860. M-00860.

A. Okay.

Q. All right. Do you know what that
document is?

A. A document that describes our limited
lifetime warranty.

Q. And if you can read the first paragraph,
what does that warrant entail and what are the
requirements for the warranty to remain in effect?

A. "Hunter Douglas, Inc., warrants that its
Hunter Douglas brand window fashion products will
be free from defects in material and workmanship
for as long as the original retail purchaser owns
the product or as otherwise set forth below,

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provided that such products were properly installed in residential dwellings, and such products were made or assembled exclusively from Hunter Douglas materials and components."

Q. Is the position of Hunter Douglas that the window blind at issue was free from defects at the time when it left its hands and control?

MR. WILLIAMS: In materials and workmanship?

MR. JAUREGUI: Yes, and components.

MR. WILLIAMS: I object. Lack of foundation.

A. For this specific product?

Q. No. I'm talking about the window blind at issue here, the one involving Max Padilla.

A. Oh, I'm sorry.

MR. JAUREGUI: Let me withdraw that. I'm trying to jump ahead here because the hour is very late, but let me do this.

Q. Is this the type of warranty that Hunter Douglas normally uses with its products?

A. Something very similar. This is an updated version, but the free-from-defect positioning that we have has always been part of

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our warranty.

Q. Would that have been part of the warranty back in 1995 when the window blind at issue may have been manufactured?

A. I don't know specifically, but I would assume that -- it's not a good way to do that, but we've always been standing behind our product from defects, yes.

Q. So I take it that if you look at the warranty here, that Hunter Douglas's position is that at the time when the window blind at issue left its control, that it was free from defects, any defect?

MR. WILLIAMS: Yes, that is our position, but you've been referring to a document that talks about defects in materials and workmanship, and its confusing, Arturo.

MR. JAUREGUI: That's fine.

Q. Is it the position of Hunter Douglas that at the time the window blind at issue in this case left its control, that that window blind was free from defects in materials and workmanship?

A. That is our position on every product we

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1 ship. In most cases, since its custom ordered, we
2 have an inspection that we look at.

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4 This is not a production line that has
5 hundreds of things coming off the same. Every one
6 that we make is unique, and every one that we
7 produce and put in a box is measured and checked
8 for defects prior to it being put in the box, so I
9 would say that that would be a position we do
10 take.

11 Q. Okay. Is there a reason why -- before
12 1995 and 1996 when the retrofit action plan went
13 into effect, why Hunter Douglas did not take
14 action before 1995-1996 to address the issue of
15 strangulation by the continuous loop cords?

16 MR. WILLIAMS: Objection, misstates the
17 evidence, argumentative. Go ahead, though.

18 A. Our position has always been we're
19 pursuing the safest products possible. Our
20 activities really have nothing to do with the CPSC
21 and what they've mandated or what the association
22 has made as a standard.

23 We have been active in this without
24 their help, without their assistance. That's what
25 put us in the position that we are in.

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And these materials that -- you know, the development of these product devices, if you think about them, take a little bit of time to develop and work.

And when they showed up on the marketplace in 1995, I can assure you that they've been worked on for quite a few years before that before we can be launched.

So we've always had a very aggressive R&D effort to make sure our product safer. It's always been that way.

Q. Are there any documents that would reflect on Hunter Douglas's activities in relation to making window blinds safer, including the vertical blinds such as the one at issue in this case prior to 1995?

A. There might be, but I don't know. I wouldn't know.

Q. If those documents exist who would have knowledge of those documents?

A. So I'm clear, is this documents like marketing materials or is this internal?

Q. Any type of documents that would reflect on Hunter Douglas's activities to address the

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danger posed -- the danger of strangulation posed to young children by window blind looped cords.

A. That might be a better question to ask our R&D and engineering staff. They might have information.

Q. You are not aware of any such information?

MR. WILLIAMS: No, he said documents he wasn't aware of.

A. Yes. I don't know. I don't have knowledge of that.

Q. Take a look at document 1559.

MR. WILLIAMS: M or HD?

MR. JAUREGUI: HD.

Q. Sir, have you seen this document before?

A. No, sir.

Q. It's a letter from the U.S. Consumer Product Safety Commission addressed to Mr. Hopkins. Is that correct?

A. Yes, sir.

Q. And that's dated February 1996?

MR. WILLIAMS: February 6, 1996.

MR. JAUREGUI: February 6, 1996.

Q. Do you see that there on top right next

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to certified mail?

A. Well, that's a stamp. I don't see it written in the letter itself, though.

Q. All right.

Are you there at 1559?

A. Yes, sir.

Q. This is regarding a product manufactured by Hunter Douglas, and the specific concern that was being raised is a continuous loop pleated and cellular window coverings. Do you see that there?

A. Yes, sir.

Q. All right. And it is bringing up an incident regarding a second child strangulation death associated with a Duet model. Do you see that there?

MR. WILLIAMS: Counsel, I think you need to have my stipulation to have a running objection. The document speaks for itself, and this witness has no personal knowledge.

So assuming you accept that, I have that objection to these questions.

MR. JAUREGUI: I accept. I accept it.

MR. WILLIAMS: The question is do you see that --

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THE WITNESS: Yes, I do.

Q. Do you know what action, if any, Hunter Douglas took to address the concerns of the U.S. Consumer Product Safety Commission with regards to the issue of continuous loop cords?

A. I have no idea what happened in this particular case.

Q. Are you aware of any action having been taken by Hunter Douglas in response to this letter from the Consumer Product Safety Commission?

A. No, sir.

Q. Take a look at page 1678, and that will probably be HD. Are you there at 1678, Mr. Jankoski?

A. Yes.

Q. All right. Have you ever seen this document before?

A. No, sir.

Q. On page 1678, the top paragraph, it states that the Hunter Douglas quality assurance procedures require that 90 percent of tassels break apart at less than or equal to 3 and a half pounds, and 100 percent of tassels break apart at a force of less than or equal to 4 pounds. Do you

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know what that's referring to?

MR. WILLIAMS: First of all, does that refer to pounds per foot as you read it? LBF?

THE WITNESS: I'm not familiar with what "LBF" stands for.

MR. WILLIAMS: Okay. I'm sorry. Back to his question.

Q. The question, does that --

A. The way I read that --

MR. WILLIAMS: Let him ask you a question.

Q. Does that information mean anything to you? Earlier, you and I were talking about the strength of the cords, and that seems to be addressing that issue. So the question is, does this information mean anything to you?

A. Well, it's not the cord. It's the breakaway piece. It's where the two tassels come together and break away. It's not the cord, but it's the strength of the two plastic pieces that come together.

Q. All right.

A. That's what this is referring to.

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Q. Okay. And do you know when that technology -- this is dated March 25, 1994. Do you know when Hunter Douglas was using that technology?

A. I don't recall. We talked about it earlier. There was a date, you know, mid '90s.

Q. Is this something that engineers in Hunter Douglas might be in a better position to address?

A. Yes.

Q. Take a look at document HD1680. Have you ever seen this document before?

A. No, sir.

Q. Let me just ask you two quick questions on that. It appears to be an agreement between Hunter Douglas and the sellers of a patent to purchase the safety tassel patent. Okay?

A. Yes.

Q. All right. Do you know whether at any time Hunter Douglas considered using the safety tassel device for the cords of vertical blinds.

A. Probably not because, again, the construction of that product doesn't support a breakaway system. The cords are rotated, not

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pulled.

Q. So it would not have worked in the vertical blind mechanism?

A. I don't see how it could.

Q. We're moving quite along. That's fine. Thank you.

This is an internal document from Hunter Douglas from a sales and marketing bulletin.

A. What page are you on, sir?

Q. I'm sorry. That's 1327, HD1327. Have you seen this document before?

A. I don't recall.

Q. You know what? Then we'll skip it.

Sir, I want you to go to document HD1651, please. My question to you is, have you seen this document before?

A. No, sir.

Q. Do you need a minute to review it?

A. Yes.

(Document review.)

Q. If I can ask you a question at this point?

A. Yes, sir.

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Q. This document appears to be an agreement regarding window covering cord safety, and someone drafted this contract to be signed by the U.S. Consumer Product Safety Commission and the Window Covering Safety Council.

To your knowledge, do you know whether any such agreement was entered into between the U.S. Consumer Product Safety Commission and the Window Covering Safety Council?

A. I was not aware of any formal agreement.

Q. Take a look at page 1650. It's the document before that. Have you seen this document before?

A. No, sir.

Q. This document is a letter from Ira DeMarcus, and it's addressed to someone at Sidley Austin and also Chris Outlaw. Does Chris still work at Hunter Douglas?

A. Yes, sir.

Q. It is discussing a deal that should be made between the Window Covering Safety Council and U.S. Consumer Product Safety Commission.

As someone that has been involved in the window covering industry for the years that you

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2 have, did you ever hear any discussions of the
3 Window Covering Safety Council entering into some
4 kind of deal with the U.S. Consumer Product Safety
5 Commission?

6 A. No, sir, I have not.

7 Q. Now, there are many records there that
8 indicate a frustration on the part of the Consumer
9 Products Safety Commission in the ability of the
10 window covering industry to respond to the
11 mounting deaths of young children from window
12 blind cords.

13 Do you know whether the Window Covering
14 Safety Council was created in an effort to try to
15 dissuade the Consumer Product Safety Commission
16 from taking mandatory action against the window
17 covering industry?

18 MR. WILLIAMS: Let me object to the
19 preamble to that and your characterization of
20 the frustration of the Consumer Product
21 Safety Commission. I think the question is
22 argumentative. Go ahead, if you understand
23 it.

24 A. I was not aware of that, no.

25 Q. Do you know if anyone at Hunter Douglas

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would have been aware other than Mr. Outlaw?

A. I wouldn't know.

Q. Now, does Hunter Douglas have any employees that lobby on its behalf before legislative bodies, such as Congress, for any state and local governments?

A. Currently?

Q. Yes.

A. We have a group that's talking to the national fenestration board. That's not the correct title. It's the fenestration group that -- we are trying to pursue Energy Star ratings, energy recognitions to associate with our product to make it part of the -- you know, the Energy Star initiative, if you will, and it has to start with this fenestration board.

Again, I don't have the exact title of that organization, but we have someone involved in that to try to pursue that.

Q. But do you know in 1995 and 1994 whether Hunter Douglas had any members of its staff or someone hired on its behalf to try to lobby Congress to dissuade the commission, the U.S. Product Safety Commission, from moving forward

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with the safety standards that they were trying to
push in 1995 and 1994?

A. I'm not aware of any.

Q. Do you know the person within
Hunter Douglas that is most knowledgeable about
the issue of warnings and placement of labels on
Hunter Douglas products?

A. I don't believe there is one person.

Q. Is there a division?

A. We're organized in a very decentralized
fashion. Every product has its own management
group, product group, and they send their product
downstream to a bunch of different fabricators, so
it's very decentralized.

Q. All right.

Mr. Jankoski, can you take a look at HD
1491? Have you seen this document before,
Mr. Jankoski?

A. No, sir.

Q. Have you ever heard of the seminal study
conducted by the Journal of American Medical
Association in 1997?

A. Not particularly, no.

Q. You never heard about this study?

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A. I have never seen this document, and I barely -- I don't have any good recollection of the study, no.

Q. You don't recall this document, the study from JAMA, the Journal of America Medical Association, having been discussed at any point in any of the meetings that you attended with the Window Covering Safety Council or the Window Covering Manufacturers Association?

A. Not that I recall.

Q. All right. Do you know whether or not the JAMA study of 1997 would have been discussed within Hunter Douglas?

A. I don't recall it being discussed.

Q. I'll just tell you here -- I'll just read you one sentence here, the conclusions. If you're with me, you can read along.

"The window covering cords represent a substantial strangulation hazard compared with other potentially harmful household products that were modified based on voluntarily standards to mitigate the risk to injury."

This is in 1997, and the premise of the study was that window cords represented a serious

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hazard to young child, and also they believed that the number of deaths between 1981 to 1995 were underrepresented by some 49 percent.

Again, you've ever seen this study?
You've never seen these statistics?

A. No.

MR. WILLIAMS: Asked and answered.

Q. Take a look at HD1511, please. Do you see the diagram there?

A. Yes, sir.

Q. Was this part of the retrofit campaign still or was this some separate activity all together?

A. It looks very similar to what would be in the retrofit kit. Those diagrams look very similar to what might be in the kit to describe what to do with these tassels once you get them.

Q. And one of the recommendations was to cut off the single tassel there and split it into two. Is that correct? That's what the diagram says?

A. Yes.

Q. Sir, take a look at HD1515. Now, there's a Design D that's shown on that page,

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HD1515. Is that what you were trying to describe for us before when we were talking about the breakthrough safety tassels?

A. Yes, sir. These are the two pieces that fit together.

Q. And that would have replaced -- that was intended to replace what?

A. A single tassels with the cord tied together.

Q. Can you take a look at HD1544, please. Just let me ask you, have you ever seen this document before?

A. I can't recall.

Q. And who is O.B. Kelly?

A. He was the gentleman at Hunter Douglas who was heading up the safety initiative.

Q. If I ask you questions, I think they'll get through with this document quicker. It's dated October 15, 1996. Is that correct?

MR. WILLIAMS: Same objection as before.

A. That's what the document shows.

Q. And if you look at the paragraph in the middle, the third sentence or so that starts "CPSC's," do you see that there?

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A. Yes.

Q. The Consumer Product Safety Commission's complaint is that the window covering safety information program has not generated enough coverage for the tie-down devices for the last four months?

Now, are these --

MR. WILLIAMS: No, that was the beginning of another sentence.

MR. JAUREGUI: Yes.

Q. Let me just ask you a question here and pause here for a minute. Are these the tie-down devices that would have been used on the vertical blinds such as the one here at issue?

MR. WILLIAMS: Again, Counsel, he didn't write this letter, and he hasn't seen it. I really think it's unfair to ask him to speculate as to what somebody meant in a letter he has never seen before.

So you may have some sense of the context, but if you don't know what's meant by the author, you don't know.

Q. Do you know what were the tie-down devices that are referred to in that document?

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A. No.

Q. Take a look at document HD1548. In the interest of time, again, that is a document from the Window Covering Safety Education and Information Program dated October 15, 1995, to June 15, 1996.

MR. WILLIAMS: I don't know that it's dated that. It refers to that, apparently.

MR. JAUREGUI: It refers to those dates. I stand corrected. Up on the upper left corner, it has the date of October 21, 1996.

Q. My question to you, sir. I asked you if you had any information to rely upon for your belief that the Window Covering Safety Council had done a good job in implementing the retrofit campaign of 1995-1996.

In the second paragraph here, the second sentence, it states, "From October 15, 1995, through June 15, 1996, approximately 5,000 consumer calls were logged on the toll-free number leading to the distribution of 45,000 safety tassels, brochures and posters."

My question to you is, given those numbers and given the number of older window

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blinds in consumer homes, do we have a match here?
Is there a match with the number of units, order
units needing repairs, and the number of calls
that were being received by the Window Covering
Safety Council?

MR. WILLIAMS: Okay, I've only got about
five objections to that question, so hold on
for a second.

It lacks foundation. He's testified he
doesn't recall seeing this before.

You prefaced a question with a reading
of this statistic, and you're asking him to
assume without any knowledge of whether he
had a basis for doing so or not that these
figures are accurate.

And, finally, I don't know what you
mean, so I guess the objection is vague and
ambiguous when you say "is that a match."

Q. Did you understand the question or not
subject to all of those objections?

A. Well, you're inquiring about the
effectiveness of this campaign.

Q. Okay.

MR. WILLIAMS: Do you understand his

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question? I don't want you to give a speech.
I want you to understand his question.

THE WITNESS: I understand, and I will.

A. Since the beginning of it also states
that the effort did generate 9.7 million parts of
circulation with 36 million impressions, I guess
the question is if you lead the horse to water,
does he drink?

There's no guarantees we can provide
consumer behavior. Clearly, you know, could the
number be bigger? Of course, and it should be
bigger. However, this was the first, I think,
attempt at even bringing this up at a consumer
level.

The numbers that we have today are far
better than this only because we have been working
at it for longer and probably have more efficient
ways to get the message out.

But I can't find myself going back to
1995 and saying this was a failure, this was short
of expectations because this is the first time we
ever did it.

Q. All right. Fair enough. I just wanted
to bring that information to your attention so

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that we can put it into context in light of the questions that you and I were talking about earlier before.

Take a look at HD 1575, please. I only have one question for you, and that's on the first page. So if I could just ask you that, unless you want more time to review the document.

MR. WILLIAMS: Well, do you know whether he has seen it before, or not?

MR. JAUREGUI: Well, I'm going there. That's part of the questions.

MR. WILLIAMS: Well, then you've got two questions.

MR. JAUREGUI: Well, that's the first one.

MR. WILLIAMS: That's what I mean.

MR. JAUREGUI: All right.

MR. WILLIAMS: Let him ask you the first question.

THE WITNESS: Okay.

Q. Have you ever seen this document before?

A. No, sir.

Q. All right. Do you know who Margaret Feinstein is?

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A. Yes.

Q. Who is she?

A. She used to be in the Hunter Douglas marketing department.

Q. Now, this letter was written according to the information on September 5, 1996, from the letter, right? We can agree to that?

MR. WILLIAMS: Same objection, running objection as to the document speaks for itself.

A. Yes.

Q. The second paragraph of that letter, can you please read that? You are a better reader than I am.

A. "At the outset, Hunter Douglas must strongly reiterate that continuous looped cord products as Hunter Douglas markets them do not pose a substantial product hazard.

"In addition to eliminating potential harm to younger children from those cords, Hunter Douglas provides a warning card with each product that states the following."

Q. All right. Now, this is in 1996, and I take it that in 1996 that's the position of

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Hunter Douglas, that its products with continuous loop cords as Hunter Douglas markets them did not pose a substantial product hazard, correct?

A. May I double back?

Q. Sure. Yes.

A. My apologies. When I looked at the name Margaret Feinstein, I really believed I was reading Miriam Feinseth --

MR. WILLIAMS: I was going to say --

A. -- who was the person I thought was writing this. I don't know who this person is.

And we had a person, Miriam Feinseth, who was our marketing person who has since passed away, but I don't know who this person is. I have never heard of her. I'm sorry about that.

Q. And so a quick question -- that's fine. The record will stand corrected.

A. Okay. My apologies.

Q. That's fine. And my question for you, this is a position that was being taken by Margaret Feinstein, who apparently was an attorney for the Dickstein Shapiro Morin & Oshinsky law firm in Washington. Is that correct?

A. That's what it appears to be.

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Q. You've dealt with attorneys before,
right?

A. Sparingly.

Q. That's a bad question.

MR. WILLIAMS: Always with a smile on
his face.

Q. This position or the proposition that in
1996 Hunter Douglas was taking was that its
continuous looped products did not pose a
substantial product hazard.

That's a position or a statement that
would have not been made by Margaret Feinstein
without authorization from Hunter Douglas. Is
that a fair statement?

MR. WILLIAMS: Objection. That goes
well beyond my running objection. That calls
for speculation. He has no basis for knowing
that unless he has got knowledge of that, and
he said he doesn't know anything about the
letter.

A. I really don't know who she is and who
authorized her to write this. I have idea.

Q. At the time when Ms. Feinstein wrote
this letter, was she acting on behalf of

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Hunter Douglas or not?

MR. WILLIAMS: Same objection.

A. I don't know who she is, and I've never heard of the firm she works for.

Q. Take a look at HD1741, Mr. Jankoski. Have you seen this document before?

A. I can't recall.

Q. It's a document that was produced to us by the Consumer Product Safety Commission.

Again, is there someone here in Hunter Douglas that handles information such as the one contained in this document when a fatality occurs involving a Hunter Douglas product?

A. It would be Chris Outlaw.

Q. Can you spell the last name?

A. O-u-t-l-a-w.

Q. What's Chris's title?

A. He is one of our in-house attorneys.

Q. So in your capacity as the vice-president, is it, of marketing --

A. Yes, sir, merchandising.

Q. -- merchandising, you do not get to see this information?

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J. Jankoski

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Q. Are you made aware of it at some point by other people within Hunter Douglas?

A. The only time I would see something like this would be in conjunction with a Window Covering Manufacturing Association analysis of trends, but that would be the only time.

Q. Take a look at document HD1760.

A. I'm sorry, 1760?

Q. Yes. Again, just so that we move along here, the hour is very late, this appears to be -- this is a fax cover sheet from Renee at the U.S. Consumer Product Safety Commission, correct?

A. Yes.

Q. And that is addressed to Hunter Douglas?

A. Yes.

Q. Jason Throne, T-h-r-o-n-e. Does Mr. Throne still work at Hunter Douglas?

A. Yes, he does.

Q. All right. There is a remark that is made there, and it reads, "Ready to begin your retrofit program. Call me." Attached to that memorandum is another fatality involving a Hunter Douglas product. Have you ever seen this document?

J. Jankoski

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2 A. No, sir.

3 MR. WILLIAMS: Just for the record,
4 Counsel, a fatality is not attached. A
5 document of two pages and some photographs
6 that's a summary of an incident from its
7 context, at least, identified as a
8 Hunter Douglas product is attached with no
9 more verifying information.

10 MR. JAUREGUI: All right. Well, up on
11 top, it just said the cause of death was
12 listed as affixation, so that's why I used
13 the word "fatality," that the child died.

14 All right, give me just one minute and I
15 should wrap it up in five minutes.

16 Q. Sir, if you can please take a look at
17 document M-800. It should be in the first stack
18 of documents. It's a document about 30 pages
19 long. It looks like this.

20 A. I've got it.

21 Q. Again, to assist in the process here,
22 this document was produced to us by the window
23 covering -- by the consumer protection commission,
24 and it relates to an incident that occurred in
25 Northbrook, Illinois, on March 2, 2001. My

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question to you is, have you ever seen this document before?

A. No, sir, not that I'm aware of.

Q. I'm going to ask you a couple of questions there. Can you look at M-803?

A. Yes.

Q. These were vertical blinds that, according to the report that you have in front of you, were purchased on November 11, 1996, at Glenview Paint & Glass in Glenview, Illinois. Do you see that there, 803?

A. Yes, sir.

Q. All right. Now, Glenview Paint & Glass, was this one of the independent retailers that sold Hunter Douglas blinds?

A. Although I'm not familiar with Glenview Paint & Glass personally, we currently sell to, I'll estimate, 25,000 to 30,000 individual retailers like them. So that's a good possibility, but, then again, there's too many of them for me to recall his particular status.

Q. Given that this blind was distributed in Northbrook, Illinois, do you know where this product would have been manufactured?

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MR. WILLIAMS: Are you asking him to
assume it was sold by this place in
Northbrook, Illinois?

MR. JAUREGUI: That's what the report
says. I'm going by the report.

MR. WILLIAMS: He didn't write the
report.

MR. JAUREGUI: I understand that. I'm
asking him to assume that.

MR. WILLIAMS: Okay. So if it were sold
from that place, where would it be
manufactured?

MR. JAUREGUI: Yes.

A. I couldn't guess.

Q. Take a look at 834 which is also
attached to the document, M-834. Have you ever
seen this document before?

A. No, sir.

Q. It's a letter from Mr. Ronald Rubinoﬀ.
Do you see that there?

A. Yes.

Q. Does he still work for Hunter Douglas?

A. Yes.

Q. What is his current position?

J. Jankoski

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A. Vice-president and general manager of the window decor division, I think it is now.

Q. I think if you look at the first paragraph, it says that "I am the general manager of the Hunter Douglas Window Decor Division which produces the materials and components from which Hunter Douglas vertical blinds are made."

So is the Hunter Douglas Window Decor Division the division where all vertical blinds are made?

MR. WILLIAMS: In 2001 or today?

MR. JAUREGUI: In 2001.

A. They're not made there. They originate there. He is in charge of the -- in his division, there are a number of products. Vertical blinds are one of his products.

He takes those components and sends them to those fabricators that we had mentioned earlier, and that's how the products become produced out in the field at the fabricator level. He is at a component level sending parts in boxes to fabricators.

You take the order. Now, he's a dealer. He gives you the order. You make it up based on

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what he wants, and I feed you the parts. It's a two-step distribution system.

So Ron is in charge of the vertical blind program that comes to fruition through the selling of component parts to fabricators.

Q. The reason why I'm asking this is because this case is very similar to our case in terms of Hunter Douglas's inability to provide information as to where the window blind was made or who manufactured it.

MR. WILLIAMS: No question. It's a comment.

THE WITNESS: Okay.

Q. I'm going to ask you two questions about two documents that are here, and that may help us to summarize the rest of the questions and perhaps help us wrap it up.

Take a look at M-99 which will be at the beginning of the materials. All right.

If you look at M-99 and M-122, Mr. Jankoski, these appear to be meetings, I take it, sponsored by the U.S. Consumer Product Safety Commission, and the subject is WCMA Technical Meeting and Window Covering Safety, and your name

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appears as attending some of these meetings.

I take it that if I were to ask you questions about each of the meetings that you were present at, you would have no specific recollection of these meetings, and your attorney will probably tell us that the document speaks for itself?

MR. WILLIAMS: No, don't assume that. You've asked him a lot of questions about documents that aren't meeting minutes where there wasn't a meeting that he attended to which I objected.

Even though he didn't author this, you can show him minutes of a meetings and for starters ask if he has seen these before. It may refresh his recollection.

MR. JAUREGUI: All right.

Q. M-99, do you have a recollection -- have you ever seen this document before?

MR. WILLIAMS: The minutes.

A. No. No, sir.

Q. All right.

Now, when you attend meetings such as the one at M-99 --

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MR. JAUREGUI: Actually, strike that.

Q. This is a conference call. Someone generated a memorandum from this conference call, correct?

A. It appears that Carolina Paul is the source of this one.

Q. And was there a custom and practice in place back in 2004 and presently today that if there's a conference call such as the one here in this document, that some type of minutes of the conference call or meeting would be generated and sent to the participants?

MR. WILLIAMS: A conference call by the CPSC and industry? I mean, you just said conference calls. Within the company?

MR. JAUREGUI: Here, a conference call. Let's just limit that question to the conference call.

MR. WILLIAMS: Is there a custom and practice by whom?

Q. This is a conference call that took place on April 30.

MR. JAUREGUI: I'll withdraw the other question.

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Q. A conference call that took place on April 30, 2004, is that correct? The document tells us that, correct?

A. Yes.

MR. WILLIAMS: Same as my previous running objections.

Q. All right. Now, when you participated in conference calls such as this, was it the practice to send minutes or a summary of what was discussed during the conference call to the participants in the conference call?

A. Not necessarily.

Q. All right. In this instance they did send you a copy of a memo that was generated from this conference call, correct?

A. I don't recall getting this one.

Q. All right. Your name is listed there, correct?

A. It appears I attended the meeting.

Q. You participated in the conference call, correct?

A. The conference call, yes, sir.

Q. All right. Who is Joseph Kovak, if I'm pronouncing that right, that's on page 101?

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A. Page 101?

Q. Yes.

A. Joseph Kovak, he is a Hunter Douglas employee in the R&D research.

Q. Research and development?

A. Yes, sir.

Q. Is he still employed by Hunter Douglas?

A. Yes, he is.

Q. What facility does he work out of?

A. Broomfield.

Q. M-132, the April 6, 2005, meeting.

Subject, WCMA technical meeting and window covering cords. Apparently, the meeting --

MR. JAUREGUI: Strike that.

Q. -- the correspondence is on the U.S. Consumer Product Safety Commission's letterhead. Do you recall being present at this meeting?

A. Not specifically. It was in conjunction with the show. I was in town so I assume I'm there.

Q. So you have no recollection of being there?

A. On April 6, 2005, on this particular day, in this particular case, not really.

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2 Q. So if we look at these documents,
3 Mr. Jankoski, such as this documents from minutes
4 of meetings where your name appears on these
5 documents -- I understand that you may have
6 difficulty remembering whether or not you were
7 there, but can we assume that the documents are
8 correct at least in terms of indicating the people
9 that were present at the meeting on that given
10 day?

11 MR. WILLIAMS: If he didn't author it, I
12 don't know how you can ask that, so I'll
13 simply object to it. It calls for him to
14 speculate.

15 A. I would see no reason why it would be
16 incorrect.

17 Q. All right. The Consumer Product Safety
18 Commission or whoever is running this meeting on
19 window covering safety, they're not going to put
20 your name in a meeting that you were not present.
21 Is that fair?

22 MR. WILLIAMS: Same objection.

23 A. I hope not.

24 Q. All right. Mr. Jankoski, some time
25 during the course of this litigation, on behalf of

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Mr. Padilla and Ms. Padilla, we requested or sent out a request under the Freedom of Information Act to the U.S. Consumer Product Safety Commission asking them for any correspondence between Hunter Douglas and the commission.

The commission did not provide that information to our office because Hunter Douglas objected to the information being disclosed to plaintiff's counsel.

Can you think of any reason why Hunter Douglas would object to the disclosure of communication between Hunter Douglas and the commission to plaintiff's counsel?

MR. WILLIAMS: Number 1, it calls for speculation. Don't speculate.

Number 2, it inaccurately characterizes the partial objections that were sustained. Plenty of documents were produced. Go ahead.

A. In my position, I wouldn't know why that would be.

Q. Have you ever seen the pictures of the victim in this case Max Padilla?

A. No, sir.

Q. Are you familiar with the trademarks

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that are left from strangulation by window blind
cords?

A. The standard ligature marks?

Q. Yes.

A. I've seen some of them on the IDI's that
we've reviewed.

Q. Do you know whether Hunter Douglas has
any evidence or information that would contradict
the manner of death of Max Padilla as described by
the coroner's report in this case?

MR. WILLIAMS: I object. Lack of
foundation. If he's familiar with the
coroner's report, then he can tell you.

A. I would not have any knowledge of that.

MR. JAUREGUI: All right. I don't have
anything else.

MR. CARROLL: No questions.

MR. WILLIAMS: Off the record.

MR. JAUREGUI: I will take a mini and an
e-mail transcript.

MR. CARROLL: The same. You can give
believe a full as well.

MR. WILLIAMS: I'd like a mini and the
full and the e-mail, please.

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We won't waive signature, so make it
available to me, and I'll provide it to the
witness, please.

And then finally, Arturo, just to button
this up, I will have copied, Bates stamped,
and sent to you and Jamie as well as -- well,
I guess we don't need it for the court
reporter. He didn't mark it as an exhibit,
he didn't mark anything, the documents that
were produced today.

MR. JAUREGUI: That's fine.

(Time noted: 7:07 p.m.)

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STATE OF _____)
) ss:
COUNTY OF _____)

I, the undersigned, declare under penalty
of perjury that I have read the foregoing
transcript, and I have made any corrections,
additions or deletions that I was desirous of
making; that the foregoing is a true and correct
transcript of my testimony contained therein.

EXECUTED this _____ day of _____,
20 _____, at _____, _____.
[City] [State]

JOSEPH F. JANKOSKI

Subscribed and sworn to before me
this _____ day of _____, _____.

Notary Public in and for said

County and State

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WITNESS: JOSEPH JANKOSKI

EXAMINATION	PAGE
By Mr. Jauregui	5

EXHIBITS (Not Attached)

NUMBER	PLAINTIFF'S DESCRIPTION	PAGE
	(NONE)	

LETTER	DEFENDANT'S DESCRIPTION	PAGE
	(NONE)	

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

(NONE)

INFORMATION TO BE SUPPLIED:

(NONE)

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CERTIFICATION

I, Thomas A. Fernicola, a Notary Public,
do hereby certify that the witness(es) whose
testimony is hereinbefore set forth was duly sworn
by me; and that the within transcript is a true
record of the testimony given by said witness(es).

I further certify that I am not related to
any of the parties to this action by blood or
marriage; and that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF I have hereunto set my
hand this 8th of November 2010.

Thomas A. Fernicola, RPR